

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.)

Prepared By: Health Care Committee

BILL: CS/SB 1836

SPONSOR: Children and Families Committee and Senator Argenziano

SUBJECT: Assisted Care Communities

DATE: April 23, 2005

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Collins</u>	<u>Whiddon</u>	<u>CF</u>	<u>Fav/CS</u>
2.	<u>Harkey</u>	<u>Wilson</u>	<u>HE</u>	<u>Pre-meeting</u>
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill transfers all sections of parts III, VII, and V of chapter 400, F.S., to the new chapter 429, F.S. This bill entitles the chapter "Assisted Care Communities," consisting of parts I, II, and III. Additionally, this bill makes multiple statutory revisions that are needed to accurately reflect the move of part III of chapter 400, F.S. Finally, the Division of Statutory Revision is directed to prepare a reviser's bill to make conforming changes to the Florida Statutes.

This bill transfers and renumbers sections 400.401, 400.402, 400.404, 400.407, 400.4075, 400.408, 400.411, 400.412, 400.414, 400.415, 400.417, 400.4174, 400.4176, 400.4177, 400.4178, 400.418, 400.419, 400.4195, 400.42, 400.421, 400.422, 400.423, 400.424, 400.4255, 400.4256, 400.426, 400.427, 400.4275, 400.428, 400.429, 400.4293, 400.4294, 400.4295, 400.4296, 400.4297, 400.4298, 400.431, 400.434, 400.435, 400.441, 400.442, 400.444, 400.4445, 400.447, 400.449, 400.451, 400.452, 400.453, 400.454, 400.616, 400.617, 400.618, 400.619, 400.6194, 400.6196, 400.621, 400.6211, 400.622, 400.625, 400.6255, 400.628, 400.629, 400.55, 400.551, 400.552, 400.553, 400.554, 400.555, 400.556, 400.5565, 400.557, 400.5571, 400.5572, 400.5575, 400.558, 400.559, 400.56, 400.562, 400.563, and 400.564 of the Florida Statutes.

The bill amends sections 101.655, 189.428, 196.1975, 202.125, 205.1965, 212.031, 212.08, 296.02, 381.0035, 394.455, 394.4574, 394.463, 400.0063, 400.0069, 400.0073, 400.0077, 400.0239, 400.119, 400.141, 400.142, 400.191, 400.215, 400.23, 400.232, 400.401, 400.402, 400.404, 400.407, 400.408, 400.411, 400.412, 400.414, 400.415, 400.417, 400.4174, 400.4176, 400.4177, 400.4178, 400.418, 400.419, 400.4195, 400.42, 400.421, 400.422, 400.423, 400.424, 400.4255, 400.4256, 400.426, 400.427, 400.4275, 400.428, 400.429, 400.4293, 400.4294,

400.4295, 400.4296, 400.4297, 400.431, 400.434, 400.441, 400.442, 400.444, 400.4445, 400.447, 400.451, 400.452, 400.453, 400.462, 400.464, 400.497, 400.556, 400.5572, 400.601, 400.618, 400.628, 400.93, 400.962, 400.980, 400.9905, 400.9935, 401.23, 402.164, 408.033, 408.831, 409.212, 409.907, 410.031, 410.034, 415.1111, 430.601, 430.703, 435.03, 435.04, 440.13, 456.0375, 465.0235, 468.505, 477.025, 509.032, 509.241, 627.732, 651.011, 651.022, 651.023, 651.055, 651.095, 651.118, 765.1103, 765.205, 768.735, and 943.0585 of the Florida Statutes, to make conforming changes.

II. Present Situation:

Regulation of Health Care Facilities and Services

Chapter 408, F.S., is titled “Health Care Administration” and contains the general statutory provisions assigned to the Agency for Health Care Administration (AHCA or agency). AHCA is created in section 20.42, F.S., and is responsible for:

- Health facility licensure, inspection, and regulatory enforcement;
- Investigation of consumer complaints related to health care facilities and managed care plans;
- Implementation of the certificate-of-need program;
- Operation of the State Center for Health Statistics;
- Administration of the Medicaid program;
- Administration of the contracts with the Florida Healthy Kids Corporation;
- Certification of health maintenance organizations and prepaid health clinics as set forth in part III of chapter 641, F.S.; and
- Any other duties prescribed by statute or agreement.

The statutory provisions for the health care facilities and services requiring licensure by, or registration with, AHCA, are found in chapters 112, 383, 390, 394, 395, 400, 440, 483, and 765, F.S. The facilities and services include drug free workplace laboratories, birth centers, abortion clinics, crisis stabilization units, short term residential treatment units, residential treatment facilities, residential treatment centers for children and adolescents, hospitals, ambulatory surgical centers, mobile surgical facilities, private review agents, health care risk managers, nursing homes, assisted living facilities, home health agencies, nurse registries, companion services or homemaker services providers, adult day care centers, hospices, adult family-care homes, homes for special services, transitional living facilities, prescribed pediatric extended care centers, home medical equipment providers, intermediate care facilities for the developmentally disabled, health care services pools, health care clinics, clinical laboratories, multiphasic health testing centers, and organ and tissue procurement agencies.

These regulated health care facilities and services provide care in settings ranging from individual’s homes to institutions such as hospitals and nursing homes. The complexity of care provided ranges from companion and homemaker services in the home to trauma care and intensive care in hospitals. The duration of service ranges from short-term to long-term.

The Department of Elderly Affairs currently has the rule-writing authority for the assisted living facility, adult family-care home, adult day care center, and hospice programs. AHCA has

rule-writing authority for the majority of other programs it licenses including hospitals, nursing homes, home health agencies, and others.

Nursing Homes and Related Health Care Facilities

Chapter 400, F.S., is entitled “Nursing Homes and Related Health Care Facilities” and consists of 13 parts.

Part	Title
I	Long-Term Care Facilities: Ombudsman Program
II	Nursing Homes
III	Assisted Living Facilities
IV	Home Health Agencies
V	Adult Day Care Centers
VI	Hospices
VII	Adult Family-Care Home Act
VIII	Intermediate, Special Services, and Transitional Living Facilities
IX	Prescribed Pediatric Extended Care Centers
X	Home Medical Equipment Providers
XI	Intermediate Care Facilities for Developmentally Disabled Persons
XII	Health Care Services Pools
XIII	Health Care Clinic Act

Assisted Living Facilities

Assisted living facilities (ALFs) are residential care facilities that provide housing, meals, personal care, and supportive services to older persons and disabled adults who are unable to live independently. These facilities are licensed under chapter 400, part III, F.S. ALFs are intended to be a less costly alternative to more restrictive, institutional settings for individuals who do not require 24-hour nursing supervision. ALFs are regulated in a manner so as to encourage dignity, individuality, and choice for residents, while providing reasonable assurance for their safety and welfare. Generally speaking, ALFs provide supervision, assistance with personal and supportive services, and assistance with or administration of medications to elders and disabled adults who require such services.

In addition to a standard ALF license, there are three “specialty” ALF licenses: extended congregate care (ECC), limited nursing services (LNS), and limited mental health (LMH). An ALF holding an ECC license may provide additional nursing services and total assistance with personal care services. Residents living in ECC-licensed facilities may have higher impairment levels than those living in a standard ALF. Residents living in an ALF holding a LNS or LMH license must meet the same residency criteria as a standard-licensed ALF.

Regardless of the facility’s license status, residents living in ALFs cannot have conditions that require 24-hour nursing supervision. The only exception is for an existing resident who is receiving licensed hospice services while residing in the ALF.

Adult Family-Care Homes

An adult family-care home (AFCH) is a family-type living arrangement in a private home. AFCHs are licensed in accordance with chapter 400, part VII, F.S., to provide room, board, and personal care on a 24-hour basis for up to five individuals. AFCHs are intended to be an alternative to more restrictive, institutional settings for individuals who need housing and supportive services but who do not need 24-hour nursing supervision. The provider must own or rent and live in the home.

Adult Day Care Centers

Adult Day Care Centers (ADCC) are licensed under chapter 400, part V, F.S., to provide therapeutic programs of social and health services as well as activities for adults in a non-institutional setting. Participants may utilize a variety of services offered during any part of a day but less than a 24-hour period.

Division of Statutory Revision

The Division of Statutory Revision (Division) is a unit within the Office of Legislative Services (OLS), which is responsible for editing, compiling, indexing, and publishing the Florida Statutes under the continuous permanent statutory revision plan established under sections 11.241-11.243, F.S. The powers, duties, and functions of OLS as they pertain to the statutory revision program are specified by these sections of statute.

The provisions of section 11.242(1), F.S., charge the Division with conducting a systematic and continuing study of the statutes and laws of this state for the purpose of reducing their number and bulk, removing inconsistencies, redundancies, and unnecessary repetitions and otherwise improving their clarity and facilitating their correct and proper interpretation; and for the same purpose, to prepare and submit to the Legislature reviser’s bills and bills for the amendment, consolidation, revision, repeal, or other alterations or changes in any general statute or laws or parts thereof of a general nature required as a result of legislation approved during the preceding session or sessions.

III. Effect of Proposed Changes:

The Committee Substitute for Senate Bill 1836 transfers all sections of parts III, VII, and V of chapter 400, F.S., to chapter 429, F.S. This bill entitles the chapter “Assisted Care Communities” and makes multiple statutory revisions that are needed to accurately reflect the move of part III of chapter 400, F.S., to chapter 429, F.S. Chapter 429, F.S., is organized into parts I, II, and III, as follows:

Chapter 400, F.S., part	Title	Transferred to chapter 429, F.S., part
III	Assisted Living Facilities	I
VII	Adult Family-Care Home Act	II
V	Adult Day Care Centers	III

Section 1. Renumbers sections 400.401 – 400.454, F.S., as sections 429.01-429.54, F.S., creating part I of chapter 429, F.S.

Section 2. Renumbers sections 400.616 – 400.629, F.S., as sections 429.60 – 429.85, F.S., to create part II of chapter 429, F.S.

Section 3. Renumbers sections 400.55 – 400.564, F.S., as sections 429.90 - 429.933, F.S., to create part III of chapter 429, F.S.

Sections 4 – 115. Specify the conforming changes needed to reflect the move of part III, chapter 400, F.S., to newly created chapter 429, F.S.

Section 116: Directs the Division of Statutory Revision to prepare a reviser's bill to introduce at the subsequent legislative session to make conforming changes to the Florida Statutes.

The requirements specified in the sections of part III of chapter 400, F.S., are interconnected with other sections contained in that chapter. The provisions of this committee substitute make the conforming changes that are needed to accurately reflect the move of chapter 400, part III, F.S., to chapter 429, part I, F.S.

Upon approval, this act shall take effect July 1, 2005.

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 Article VII, Section 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 Article I, Section 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 Article III, Subsection 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:

The Agency for Health Care Administration reports that there should be no fiscal impact to implementing the provisions of this bill.

VI. Technical Deficiencies:

Sections 1, 2, and 3 of the bill create three parts in ch. 429, F.S. The bill seems to entitle the chapter "ASSISTED CARE COMMUNITIES," but does not give titles for each part within the chapter.

It is unclear whether a cross-reference to chapter 429, F.S., should be added in the following sections of the bill: section 5 – section 189.428, F.S.; section 22 – section 400.141(4), F.S.; section 23 – section 400.142, F.S.; section 26 – section 400.23, F.S.; and section 27 – section 400.232, F.S.

It is unclear whether the cross-references to chapter 429, F.S., in section 12 of the bill should apply to adult family-care homes and adult day care centers.

On page 18, line 28, the reference to part V of this chapter (chapter 400, F.S.) should be struck since part V is being transferred to chapter 429, F.S.

On page 29, line 17, the reference to part VII of chapter 400, F.S., should be replaced with part II of chapter 429, F.S.

Replacing "part" with "chapter" in the following sections of the bill does not seem appropriate, since each part of chapter 429, F.S., has its own licensure provisions: 28, 29, 30, 31, 32, 33, 35, 37, 40, 42, 43, 44, 46, 48, 49, 50, 52, 54, 55, 56, 57, 58, 59, 60, 61, 63, 64, 65, 67, 68, 69, 70, 71, 72, and 73.

In section 72 of the bill, it is unclear whether the cross-reference to chapter 429, F.S., is too broad, since chapter 429, F.S., includes adult family-care homes and adult day care centers, not just assisted living facilities.

In section 74 of the bill, the reference to chapter 429, F.S., does not seem appropriate since home health agencies would continue to be licensed only under chapter 400, F.S.

In section 84 of the bill, it is unclear that a cross-reference to chapter 429, F.S., should be added.

On page 108, line 19, the reference to chapter 429, F.S., should be narrowed to part I of chapter 429, F.S.

In section 95 of the bill, it is unclear whether a cross-reference to chapter 429, F.S., should be added.

In section 100 of the bill, it is unclear whether a cross-reference to chapter 429, F.S., should be added.

In section 112 of the bill, it is unclear whether a cross-reference to chapter 429, F.S., should be added.

VII. Related Issues:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

VIII. Summary of Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
