

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 4053 Assisted Living Facilities

SPONSOR(S): Hudson

TIED BILLS: **IDEN./SIM. BILLS:** SB 696

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health & Human Services Quality Subcommittee	11 Y, 4 N	Guzzo	Calamas
2) Health & Human Services Committee			

SUMMARY ANALYSIS

House Bill 4053 deletes subsection (9) of section 429.19, F.S., which requires the Agency for Health Care Administration (AHCA) to annually develop and disseminate a list of all assisted living facilities (ALFs) sanctioned or fined for violations, the number and class of violations, the penalties imposed and the current status of the case.

Under current law, AHCA is required to develop and distribute the list to the Department of Elder Affairs (DOEA), the Department of Health (DOH), the Department of Children and Family Services (DCF), the Agency for Persons with Disabilities (APD), the area agencies on aging, the Florida Statewide Advocacy Council, and the state and local ombudsman councils. AHCA currently disseminates the list by posting the required information on their website.

The bill does not appear to have a fiscal impact on state or local government.

House Bill 4053 provides an effective date of July 1, 2011.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Chapter 429, Part I, F.S., and chapter 58A-5, F.A.C., regulate the licensure of assisted living facilities (ALFs). Section 429.19(9), F.S., requires the Agency for Health Care Administration (AHCA) to develop and disseminate an annual list of all facilities sanctioned or fined for violations of state standards. The list must include the number and class of violations involved, the penalties imposed, and the current status of cases. Once the list is developed, it must then be sent to the Department of Elder Affairs (DOEA), the Department of Health (DOH), the Department of Children and Family Services (DCF), the Agency for Persons with Disabilities (APD), the area agencies on aging, the Florida Statewide Advocacy Council, and the state and local ombudsman councils. The list may be provided electronically or through AHCA's website.

As of January 2011, 2,947 ALFs are licensed statewide. Based on the requirement in s. 429.19(9) F.S., AHCA publishes two annual reports on their website.

The AHCA "Administrative Fines" report shows all facilities with administrative fines imposed by final order between July, 2009, and June, 2010. The report specifies the following:¹

- Provider name
- City
- County
- License status (closed or active)
- Legal case number
- Type of deficiency
- Fine amount
- Outcome of the case
- Specific survey violation and class of violation

The AHCA "Sanctions" report shows all facilities with sanctions imposed (moratorium, revocation, denial and suspension) in final order status between July, 2009, and June, 2010. The report specifies the following:²

- Provider name
- Owner
- Current license status
- City
- County
- Legal case number
- Type of case
- Outcome of the case
- Final order date
- Emergency suspension
- Moratorium status and moratorium start date

¹AHCA Administrative Fines Report, available at, http://ahca.myflorida.com/MCHO/Long_Term_Care/FDAU/docs/ALF_Fines.pdf.

²AHCA Sanctions Report, available at, http://ahca.myflorida.com/MCHO/Long_Term_Care/FDAU/docs/ALF_Sanctions.pdf.

Effect of Proposed Changes

The bill repeals subsection (9) of s. 429.19, F.S., which requires AHCA to develop and distribute an annual list of all ALFs sanctioned or fined for violations, the number and class of violations, the penalties imposed and the current status of the case.

While AHCA will no longer be required by law to post and distribute this report, online or otherwise, the law does not prohibit AHCA from doing so. The bill effectively gives AHCA discretion to affirmatively compile and publish the information, or, for example, compile and provide the information in response to a public records request. AHCA has indicated they intend to remove the information from their website and make it available through a public records request.³

B. SECTION DIRECTORY:

Section 1: Amends s. 429.19, F.S., relating to violations; imposition of administrative fines; grounds.

Section 2: Provides an effective date of July 1, 2011.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

³ Florida Agency for Health Care Administration, Bill Analysis and Economic Impact Statement, House Bill 4053(February 22, 2011).

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES