

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Children, Families, and Elder Affairs Committee

BILL: SB 696

INTRODUCER: Senator Richter

SUBJECT: Assisted Living Facilities

DATE: April 1, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Daniell	Walsh	CF	Pre-meeting
2.	_____	_____	HR	_____
3.	_____	_____	RC	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill removes the statutory requirement that the Agency for Health Care Administration develop and disseminate an annual list of assisted living facilities sanctioned or fined for violations of state standards.

This bill substantially amends section 429.19, Florida Statutes.

II. Present Situation:

An Assisted Living Facility (ALF) is a residential establishment, or part of a residential establishment, that provides housing, meals, and one or more personal services for a period exceeding 24 hours to one or more adults who are not relatives of the owner or administrator.¹ A personal service is direct physical assistance with, or supervision of, the activities of daily living and the self-administration of medication.² Activities of daily living include: ambulation, bathing, dressing, eating, grooming, toileting, and other similar tasks. An ALF may be operated for profit or not-for-profit, and can range from small houses resembling private homes to larger developments with hundreds of residential beds.

Assisted living facilities are currently licensed by the Agency for Health Care Administration (AHCA or agency) pursuant to part I of ch. 429, F.S., relating to assisted care communities and part II of ch.408, F.S., relating to the general licensing provisions for health care facilities. Assisted living facilities are also subject to regulation under chapter 58A-5 of the Florida

¹ Section 429.02(5), F.S.

² Section 429.02(16), F.S.

Administrative Code. These rules are adopted by the Department of Elder Affairs (DOEA) in consultation with AHCA, the Department of Children and Family Services (DCF), and the Department of Health (DOH).³ As of February 2011, there were 2,926 ALFs licensed in the state.⁴

Florida law provides for three classifications of violations of part I of ch. 429, F.S., as well as the adopted rules. The agency shall impose administrative fines for all violations and, in addition, the agency may assess a survey fee to cover the cost of conducting initial complaint investigations that results in the finding of a violation.⁵

Section 429.19(9), F.S., requires AHCA to develop and disseminate a list annually 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 the case. Once the list is developed, it must be sent to DOEA, DOH, DCF, the Agency for Persons with Disabilities, area agencies on aging, the Florida Statewide Advocacy Council, and the state and local ombudsman councils. The agency may charge a fee for the cost of printing and postage or the list may also be provided electronically or through AHCA's Internet site.

Based on the requirements of s. 429.19(9), F.S., AHCA currently publishes two annual reports on its website: Assisted Living Facility – Administrative Fines (Administrative Fines) and Assisted Living Facility – Sanctions (Sanctions).

The Administrative Fines report shows all ALFs with fines imposed by final order between July 2009 and June 2010.⁶ The report specifies the following:

- Provider name
- City
- County
- License number
- 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 Sanctions report shows all facilities with sanctions imposed in final order status between July 2009 and June 2010.⁷ The report specifies the following:

³ Section 429.41(1), F.S.

⁴ Agency for Health Care Admin., *2011 Bill Analysis and Economic Impact Statement SB 692* (Feb. 28, 2011) (on file with the Senate Committee on Children, Families, and Elder Affairs).

⁵ Sections 429.19(1) and (7), F.S.

⁶ Agency for Health Care Admin., *Assisted Living Facility – Administrative Fines* (Mar. 1, 2011), available at http://ahca.myflorida.com/MCHQ/Long_Term_Care/FDAU/docs/ALF_Fines.pdf (last visited Mar. 30, 2011).

⁷ Agency for Health Care Admin., *Assisted Living Facility – Sanctions* (Mar. 1, 2011), available at http://ahca.myflorida.com/MCHQ/Long_Term_Care/FDAU/docs/ALF_Sanctions.pdf (last visited Mar. 31, 2011).

- Provider name
- Owner
- License number
- 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

Any action taken to correct a violation must be documented in writing and verified through follow-up visits by AHCA.⁸

III. Effect of Proposed Changes:

This bill amends s. 429.19, F.S., to remove the requirement that the Agency for Health Care Administration (AHCA or agency) develop and disseminate an annual list of assisted living facilities (ALFs) sanctioned or fined for violations of state standards. The bill also eliminates language providing that AHCA may provide the information electronically or on its website.

While the bill eliminates the requirement that AHCA publish this annual list, the agency would still have the discretion to do so if it wished. According to AHCA, the information would still be available through a public-record request.⁹

The bill provides an effective date of July 1, 2011.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

⁸ Section 429.19(5), F.S.

⁹ Agency for Health Care Admin., *2011 Bill Analysis and Economic Impact Statement SB 696* (Feb. 22, 2011) (on file with the Senate Committee on Children, Families, and Elder Affairs).

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

According to the Agency for Health Care Administration, the information currently found on its website will still be available through a public-record request.¹⁰ Accordingly, if this bill passes, a person will have to pay a fee associated with the public-record request in order to receive information relating to which assisted living facilities have been fined or sanctioned.

C. Government Sector Impact:

To the extent the Agency for Health Care Administration incurred costs associated with developing and disseminating the list annually, those expenses should be eliminated with the passage of this bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

¹⁰ *Id.*