

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 Committee on Children, Families, and Elder Affairs

BILL: SB 1082

INTRODUCER: Senator Legg

SUBJECT: Adult Day Care Centers

DATE: March 14, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Crosier	Hendon	CF	Pre-meeting
2.			AHS	
3.			AP	

I. Summary:

SB 1082 creates a definition for adult day care services, removes the exemption from licensing for certain facilities, and allows for licensed centers or facilities to continue to operate in the event the facility needs to temporarily relocate as a result of an emergency or for the safety of participants. The bill requires employees that provide direct care to participants with Alzheimer’s disease or a dementia-related disorder be offered current training related to these diseases annually.

The bill’s effective date is July 1, 2014. The fiscal impact is unknown at this time.

II. Present Situation:

The Agency for Health Care Administration (AHCA or agency) is authorized by statute to regulate and develop, establish, and enforce basic standards for adult day care centers (centers). An adult day care center is defined as “any building, buildings, or part of a building, whether operated for profit or not, in which is provided through its ownership or management, for a part of a day, basic services to three or more persons who are 18 years of age or older, who are not related to the owner or operator by blood or marriage, and who require such services.”¹

Section 429.90, F.S., assures the implementation of a program that provides therapeutic social and health activities and services to adults in an adult day care center. A participant² in an adult day care center must have functional impairments and be in need of a protective environment where therapeutic social and health activities and services are provided. Centers are prohibited from accepting participants who require medication during the time spent at the center and who are incapable of self-administration of medications, unless there is a person licensed to

¹ Section 429.901(1), F.S.

² Section 429.901(8), F.S., defines a participant as “a recipient of basic services or of supportive and optional services provided by an adult day care center.”

administer medications at the center.³ Every adult day care center must offer a planned program of varied activities and services promoting and maintaining the health of participants and encouraging leisure activities, interaction, and communication among participants on a daily basis. Centers are required to make these activities and services available during at least 60 percent of the time the center is open.⁴ A center is required to have one staff member for every six participants, but at no time may a center have less than two staff members present, one of whom is certified in first aid and CPR.⁵

Section 429.907, F.S., provides that in order to operate an adult day care center in this state it must obtain a license issued by the Agency for Health Care Administration.⁶ Separate licenses are required for centers operated on separate premises even though operated under the same management. Separate licenses are not required for separate buildings on the same premises.⁷ If a licensed center becomes wholly or substantially unusable due to a disaster or emergency, the licensee may continue to operate under its current license in premises separate from that authorized under the license. The location of the premises must be specified in its comprehensive emergency management plan submitted to and approved by the applicable county emergency management authority. The center must notify the agency and county emergency management authority within 24 hours of operating in the separate premises.⁸ The licensee can continue to operate at the separate premises for up to 180 days, which may be extended by the agency beyond the initial 180 days.⁹ An applicant must pay a fee for each license application submitted and the fee amount cannot exceed \$150.¹⁰ County-operated or municipally operated centers applying for licenses are exempt from the payment of the license fee.¹¹

Section 429.917, F.S., provides specific requirements for centers that offer care to persons with Alzheimer's disease or other related disorders. These centers must provide staff with written information on interacting with participants with Alzheimer's disease or dementia-related disorders. Additionally, staff who provide direct care to participants who have Alzheimer's disease or a dementia-related disorder must complete an additional 3 hours of training within 9 months after beginning employment.¹²

III. Effect of Proposed Changes:

Section 1 amends s. 429.901, F.S., to define "adult day care services" as community-based group services designed to provide social, health, therapeutic, recreational, nutritional, or respite services to adults who need supervised care in a safe environment during the day. The services should be designed to:

- Delay or prevent institutionalization.
- Improve the ability to function independently through the delivery of individualized care.

³ Rule 58A-6.006, F.A.C.

⁴ Rule 58A-6.008, F.A.C.

⁵ Rule 58A-6.006, F.A.C.

⁶ Section 429.907(1), F.S.

⁷ Section 429.904(2)(a)

⁸ Section 429.907(2)(b)1.a and b, F.S.

⁹ Section 429.907(2)(b)2, F.S.

¹⁰ Section 429.907(3), F.S.

¹¹ Section 429.907(4), F.S.

¹² Section 429.917(1)(c), F.S.

- Offer an alternative setting for adults who have chronic and long-term health care needs.
- Improve or stabilize cognitive functioning.
- Educate caregivers.
- Provide respite for caregivers.
- Increase access to resources and information.

This section also defines “respite” as short-term, temporary relief for a person who is caring for a family member who might otherwise require permanent placement in a facility outside the home.

Section 2 amends s. 429.905, F.S., to provide that a facility, institution, or other place that is operated by the Federal Government or any other agency thereof is exempt from the licensing and monitoring requirement. This section also removes the exemption from licensure as an adult day care for freestanding inpatient hospice facilities licensed by the state providing day care services to hospice patients only, licensed assisted living facilities, licensed hospitals, or a licensed nursing home facility that may provide services during the day.

Section 3 amends s. 429.907, F.S., to provide that if a licensed center becomes wholly or substantially unusable due to a disaster, an emergency or due to alterations to the building that may constitute a hazard to the safety of the participants, the facility may continue to operate under its current license in premises separate from the premises authorized under the license if the licensee notifies the agency and the county emergency management authority within 24 hours after beginning to operate in another premises. The facility may also continue to operate under its current license in premises separate from the premises authorized under the license if the facility notified the agency within 30 days after commencement of building alterations requiring temporary relocation to another premises for the safety of the participants. Additionally, a center may be granted a conditional license if the center has been in operation for more than 1 year before moving to the new location. Within 6 months after the center relocates, the agency must inspect the new location. An application for a conditional license renewal must be submitted at least 60 days before the conditional license expires.

Section 4 amends s. 429.911, F.S., relating to the denial, suspension, or revocation of a license under certain conditions. The bill adds the existence of unsafe conditions at the center which materially affect the well-being, health, or safety of center participants as a condition for agency action.

Section 5 amends s. 429.915, F.S., to add the additional category of temporary relocation as a condition by which the agency may issue a conditional license.

Section 6 requires that the additional training required in s. 429.917(1)(c), F.S. for employees providing direct care to participants with Alzheimer’s disease or dementia-related disorders must contain the most current information regarding Alzheimer’s disease and dementia-related disorders and must be offered annually.

Section 7 amends s. 429.931, F.S., to provide that in addition to construction and renovation, repairs of a center must comply with the provisions of ch. 533, pertaining to building construction standards

Section 8 amends s. 400.141, F.S., administration and management of nursing homes, to remove reference to providers of adult day services in s. 400.141(1)(f), F.S.

Section 9 provides an effective date of July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill requires staff providing direct care to participants receive the most current information regarding Alzheimer's and dementia-related disorders annually. There may be additional expenses incurred by the annual requirement. The bill removes the cap of \$150 for each application or license. The agency has the discretion to set the fee in rule.

Freestanding inpatient hospice facilities, licensed assisted living facilities, or licensed nursing home facilities providing services during the day to adults that are not residents will be required to apply for a license.

C. Government Sector Impact:

The removal of the exemption from licensing for certain facilities providing day care services will likely increase the inspections and monitoring duties of the agency. The fiscal impact of the additional duties is unknown.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 429.901, 429.905, 429.907, 429.911, 429.915, 429.917, 429.931, and 400.141.

IX. Additional Information:**A. Committee Substitute – Statement of 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.
