



113398

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/03/2015	.	
	.	
	.	
	.	

---

The Committee on Health Policy (Flores) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 285 - 531

and insert:

Section 4. Subsection (2) and paragraph (c) of subsection (3) of section 419.001, Florida Statutes, are amended to read:

419.001 Site selection of community residential homes.—

(2) Homes with ~~of~~ six or fewer residents which otherwise meet the definition of a community residential home are ~~shall be~~ deemed a single-family unit and a noncommercial, residential use



113398

11 for the purpose of local laws and ordinances. Homes with ~~of~~ six  
12 or fewer residents which otherwise meet the definition of a  
13 community residential home must ~~shall~~ be allowed in single-  
14 family or multifamily zoning without approval by the local  
15 government, provided that such homes may ~~shall~~ not be located  
16 within a radius of 1,000 feet of another existing such home with  
17 six or fewer residents. Such homes with six or fewer residents  
18 may not be located within a radius of 1,200 feet of a community  
19 residential home. Such homes with six or fewer residents may  
20 ~~shall~~ not be required to comply with the notification provisions  
21 of this section; provided that, prior to licensure, the  
22 sponsoring agency provides the local government with the most  
23 recently published data compiled from the licensing entities  
24 that identifies all community residential homes and all such  
25 homes with six or fewer residents within the jurisdictional  
26 limits of the local government in which the proposed site is to  
27 be located in order to show that no other community residential  
28 home is within a radius of 1,200 feet of the proposed home with  
29 six or fewer residents and that no other such home with six or  
30 fewer residents is within a radius of 1,000 feet of the proposed  
31 home with six or fewer residents. At the time of home occupancy,  
32 the sponsoring agency must notify the local government that the  
33 home is licensed by the licensing entity.

34 (3)

35 (c) The local government may ~~shall~~ not deny the siting of a  
36 community residential home unless the local government  
37 establishes that the siting of the home at the site selected:

38 1. Does not otherwise conform to existing zoning  
39 regulations applicable to other multifamily uses in the area.



113398

40           2. Does not meet applicable licensing criteria established  
41 and determined by the licensing entity, including requirements  
42 that the home be located to assure the safe care and supervision  
43 of all clients in the home.

44           3. Would result in such a concentration of community  
45 residential homes in the area in proximity to the site selected,  
46 or would result in a combination of such homes with other  
47 residences in the community, ~~such~~ that the nature and character  
48 of the area would be substantially altered. A home that is  
49 located within a radius of 1,200 feet of another existing  
50 community residential home in a multifamily zone is deemed to  
51 ~~shall~~ be an overconcentration of such homes that substantially  
52 alters the nature and character of the area. A community  
53 residential home may not be located within a radius of 1,200  
54 feet of a home of six or fewer residents which otherwise meets  
55 the definition of a community residential home. Distances must  
56 be measured between all community residential homes that are  
57 less than 1,200 feet apart if they serve residents who are  
58 clients of one or more of the agencies and offices described in  
59 paragraph (1)(a). A home that is located within a radius of 500  
60 feet of an area of single-family zoning substantially alters the  
61 nature and character of the area.

62           Section 5. Paragraphs (b) and (c) of subsection (3) of  
63 section 429.07, Florida Statutes, are amended to read:

64           429.07 License required; fee.—

65           (3) In addition to the requirements of s. 408.806, each  
66 license granted by the agency must state the type of care for  
67 which the license is granted. Licenses shall be issued for one  
68 or more of the following categories of care: standard, extended



113398

69 congregate care, limited nursing services, or limited mental  
70 health.

71 (b) An extended congregate care license shall be issued to  
72 each facility that has been licensed as an assisted living  
73 facility for 2 or more years and that provides services  
74 ~~facilities providing~~, directly or through contract, ~~services~~  
75 beyond those authorized in paragraph (a), including services  
76 performed by persons licensed under part I of chapter 464 and  
77 supportive services, as defined by rule, to persons who would  
78 otherwise be disqualified from continued residence in a facility  
79 licensed under this part. An extended congregate care license  
80 may be issued to a facility that has a provisional extended  
81 congregate care license and meets the requirements for licensure  
82 under subparagraph 2. The primary purpose of extended congregate  
83 care services is to allow residents the option of remaining in a  
84 familiar setting from which they would otherwise be disqualified  
85 for continued residency as they become more impaired. A facility  
86 licensed to provide extended congregate care services may also  
87 admit an individual who exceeds the admission criteria for a  
88 facility with a standard license if the individual is determined  
89 appropriate for admission to the extended congregate care  
90 facility.

91 1. In order for extended congregate care services to be  
92 provided, the agency must first determine that all requirements  
93 established in law and rule are met and must specifically  
94 designate, on the facility's license, that such services may be  
95 provided and whether the designation applies to all or part of  
96 the facility. This ~~Such~~ designation may be made at the time of  
97 initial licensure or licensure renewal ~~relicensure~~, or upon



113398

98 request in writing by a licensee under this part and part II of  
99 chapter 408. The notification of approval or the denial of the  
100 request must ~~shall~~ be made in accordance with part II of chapter  
101 408. Each existing facility that qualifies ~~facilities qualifying~~  
102 to provide extended congregate care services must have  
103 maintained a standard license and may not have been subject to  
104 administrative sanctions during the previous 2 years, or since  
105 initial licensure if the facility has been licensed for less  
106 than 2 years, for any of the following reasons:

- 107 a. A class I or class II violation;
- 108 b. Three or more repeat or recurring class III violations  
109 of identical or similar resident care standards from which a  
110 pattern of noncompliance is found by the agency;
- 111 c. Three or more class III violations that were not  
112 corrected in accordance with the corrective action plan approved  
113 by the agency;
- 114 d. Violation of resident care standards which results in  
115 requiring the facility to employ the services of a consultant  
116 pharmacist or consultant dietitian;
- 117 e. Denial, suspension, or revocation of a license for  
118 another facility licensed under this part in which the applicant  
119 for an extended congregate care license has at least 25 percent  
120 ownership interest; or
- 121 f. Imposition of a moratorium pursuant to this part or part  
122 II of chapter 408 or initiation of injunctive proceedings.

123  
124 The agency may deny or revoke a facility's extended congregate  
125 care license if it fails to meet the criteria for an extended  
126 congregate care license as provided in this subparagraph.



113398

127           2. If an assisted living facility has been licensed for  
128 less than 2 years, the initial extended congregate care license  
129 must be provisional and may not exceed 6 months. Within the  
130 first 3 months after the provisional license is issued, the  
131 licensee shall notify the agency, in writing, when it admits at  
132 least one extended congregate care resident, after which an  
133 unannounced inspection shall be made to determine compliance  
134 with requirements of an extended congregate care license.  
135 Failure to admit an extended congregate care resident within the  
136 first 3 months renders the extended congregate care license  
137 void. A licensee that has a provisional extended congregate care  
138 license which demonstrates compliance with all of the  
139 requirements of an extended congregate care license during the  
140 inspection shall be issued an extended congregate care license.  
141 In addition to sanctions authorized under this part, if  
142 violations are found during the inspection and the licensee  
143 fails to demonstrate compliance with all assisted living  
144 requirements during a followup inspection, the licensee shall  
145 immediately suspend extended congregate care services, and the  
146 provisional extended congregate care license expires. The agency  
147 may extend the provisional license for not more than 1 month in  
148 order to complete a followup visit.

149           3.2- A facility that is licensed to provide extended  
150 congregate care services shall maintain a written progress  
151 report on each person who receives services which describes the  
152 type, amount, duration, scope, and outcome of services that are  
153 rendered and the general status of the resident's health. A  
154 registered nurse, or appropriate designee, representing the  
155 agency shall visit the facility at least twice a year ~~quarterly~~



113398

156 to monitor residents who are receiving extended congregate care  
157 services and to determine if the facility is in compliance with  
158 this part, part II of chapter 408, and relevant rules. One of  
159 the visits may be in conjunction with the regular survey. The  
160 monitoring visits may be provided through contractual  
161 arrangements with appropriate community agencies. A registered  
162 nurse shall serve as part of the team that inspects the  
163 facility. The agency may waive one of the required yearly  
164 monitoring visits for a facility that has:

165 a. Held an extended congregate care license for at least 24  
166 months; ~~been licensed for at least 24 months to provide extended~~  
167 ~~congregate care services, if, during the inspection, the~~  
168 ~~registered nurse determines that extended congregate care~~  
169 ~~services are being provided appropriately, and if the facility~~  
170 ~~has~~

171 b. No class I or class II violations and no uncorrected  
172 class III violations; ~~and-~~

173 c. No ombudsman council complaints that resulted in a  
174 citation for licensure ~~The agency must first consult with the~~  
175 ~~long-term care ombudsman council for the area in which the~~  
176 ~~facility is located to determine if any complaints have been~~  
177 ~~made and substantiated about the quality of services or care.~~  
178 ~~The agency may not waive one of the required yearly monitoring~~  
179 ~~visits if complaints have been made and substantiated.~~

180 4.3. A facility that is licensed to provide extended  
181 congregate care services must:

182 a. Demonstrate the capability to meet unanticipated  
183 resident service needs.

184 b. Offer a physical environment that promotes a homelike



113398

185 setting, provides for resident privacy, promotes resident  
186 independence, and allows sufficient congregate space as defined  
187 by rule.

188 c. Have sufficient staff available, taking into account the  
189 physical plant and firesafety features of the building, to  
190 assist with the evacuation of residents in an emergency.

191 d. Adopt and follow policies and procedures that maximize  
192 resident independence, dignity, choice, and decisionmaking to  
193 permit residents to age in place, so that moves due to changes  
194 in functional status are minimized or avoided.

195 e. Allow residents or, if applicable, a resident's  
196 representative, designee, surrogate, guardian, or attorney in  
197 fact to make a variety of personal choices, participate in  
198 developing service plans, and share responsibility in  
199 decisionmaking.

200 f. Implement the concept of managed risk.

201 g. Provide, directly or through contract, the services of a  
202 person licensed under part I of chapter 464.

203 h. In addition to the training mandated in s. 429.52,  
204 provide specialized training as defined by rule for facility  
205 staff.

206 ~~5.4.~~ A facility that is licensed to provide extended  
207 congregate care services is exempt from the criteria for  
208 continued residency set forth in rules adopted under s. 429.41.  
209 A licensed facility must adopt its own requirements within  
210 guidelines for continued residency set forth by rule. However,  
211 the facility may not serve residents who require 24-hour nursing  
212 supervision. A licensed facility that provides extended  
213 congregate care services must also provide each resident with a





113398

214 written copy of facility policies governing admission and  
215 retention.

216 ~~5. The primary purpose of extended congregate care services~~  
217 ~~is to allow residents, as they become more impaired, the option~~  
218 ~~of remaining in a familiar setting from which they would~~  
219 ~~otherwise be disqualified for continued residency. A facility~~  
220 ~~licensed to provide extended congregate care services may also~~  
221 ~~admit an individual who exceeds the admission criteria for a~~  
222 ~~facility with a standard license, if the individual is~~  
223 ~~determined appropriate for admission to the extended congregate~~  
224 ~~care facility.~~

225 6. Before the admission of an individual to a facility  
226 licensed to provide extended congregate care services, the  
227 individual must undergo a medical examination as provided in s.  
228 429.26(4) and the facility must develop a preliminary service  
229 plan for the individual.

230 7. If ~~When~~ a facility can no longer provide or arrange for  
231 services in accordance with the resident's service plan and  
232 needs and the facility's policy, the facility must ~~shall~~ make  
233 arrangements for relocating the person in accordance with s.  
234 429.28(1)(k).

235 ~~8. Failure to provide extended congregate care services may~~  
236 ~~result in denial of extended congregate care license renewal.~~

237 (c) A limited nursing services license shall be issued to a  
238 facility that provides services beyond those authorized in  
239 paragraph (a) and as specified in this paragraph.

240 1. In order for limited nursing services to be provided in  
241 a facility licensed under this part, the agency must first  
242 determine that all requirements established in law and rule are



113398

243 met and must specifically designate, on the facility's license,  
244 that such services may be provided. This ~~Such~~ designation may be  
245 made at the time of initial licensure or licensure renewal  
246 ~~relicensure~~, or upon request in writing by a licensee under this  
247 part and part II of chapter 408. Notification of approval or  
248 denial of such request shall be made in accordance with part II  
249 of chapter 408. An existing facility that qualifies ~~facilities~~  
250 ~~qualifying~~ to provide limited nursing services must ~~shall~~ have  
251 maintained a standard license and may not have been subject to  
252 administrative sanctions that affect the health, safety, and  
253 welfare of residents for the previous 2 years or since initial  
254 licensure if the facility has been licensed for less than 2  
255 years.

256 2. A facility ~~Facilities~~ that is ~~are~~ licensed to provide  
257 limited nursing services shall maintain a written progress  
258 report on each person who receives such nursing services. The  
259 report must describe, ~~which report describes~~ the type, amount,  
260 duration, scope, and outcome of services that are rendered and  
261 the general status of the resident's health. A registered nurse  
262 representing the agency shall visit the facility ~~such facilities~~  
263 at least annually ~~twice a year~~ to monitor residents who are  
264 receiving limited nursing services and to determine if the  
265 facility is in compliance with applicable provisions of this  
266 part, part II of chapter 408, and related rules. The monitoring  
267 visits may be provided through contractual arrangements with  
268 appropriate community agencies. A registered nurse shall also  
269 serve as part of the team that inspects such facility. Visits  
270 may be in conjunction with other agency inspections. The agency  
271 may waive the required yearly monitoring visit for a facility



113398

272 that has:

273 a. Had a limited nursing services license for at least 24  
274 months;

275 b. No class I or class II violations and no uncorrected  
276 class III violations; and

277 c. No ombudsman council complaints that resulted in a  
278 citation for licensure.

279 3. A person who receives limited nursing services under  
280 this part must meet the admission criteria established by the  
281 agency for assisted living facilities. When a resident no longer  
282 meets the admission criteria for a facility licensed under this  
283 part, arrangements for relocating the person shall be made in  
284 accordance with s. 429.28(1)(k), unless the facility is licensed  
285 to provide extended congregate care services.

286 Section 6. Subsection (2) of s. 393.501, Florida Statutes,  
287 is reenacted for the purpose of incorporating the amendment made  
288 by this act to s. 419.001, Florida Statutes, in references  
289 thereto.

290 Section 7. Paragraph (a) of subsection (1) of s. 429.22,  
291 and subsection (5) of s. 429.26, Florida Statutes, are reenacted  
292 for the purpose of incorporating the amendment made by this act  
293 to s. 429.07, Florida Statutes, in references thereto.

294 Section 8. Subsection (2) of s. 409.212, Florida Statutes,  
295 is reenacted for the purpose of incorporating the amendment made  
296 by this act to s. 429.075, Florida Statutes, in references  
297 thereto.

298 Section 9. Section 429.075, Florida Statutes, is amended to  
299 read:

300 429.075 Limited mental health license.—An assisted living



113398

301 facility that serves one ~~three~~ or more mental health residents  
302 must obtain a limited mental health license.

303 (1) To obtain a limited mental health license, a facility  
304 must hold a standard license as an assisted living facility,  
305 must not have any current uncorrected ~~deficiencies or~~  
306 violations, and must ensure that, within 6 months after  
307 receiving a limited mental health license, the facility  
308 administrator and the staff of the facility who are in direct  
309 contact with mental health residents must complete training of  
310 no less than 6 hours related to their duties. This ~~Such~~  
311 designation may be made at the time of initial licensure or  
312 licensure renewal ~~relicensure~~ or upon request in writing by a  
313 licensee under this part and part II of chapter 408.  
314 Notification of approval or denial of such request shall be made  
315 in accordance with this part, part II of chapter 408, and  
316 applicable rules. This training must ~~will~~ be provided by or  
317 approved by the Department of Children and Families.

318 (2) A facility that is ~~Facilities~~ licensed to provide  
319 services to mental health residents shall provide appropriate  
320 supervision and staffing to provide for the health, safety, and  
321 welfare of such residents. A facility located in an area zoned  
322 for residential use in a municipality having a population  
323 greater than 200,000 shall also do the following:

324 (a) Maintain on the premises of the facility 24-hour  
325 security services provided by uniformed security personnel,  
326 licensed under part III of chapter 493 or by a licensed security  
327 officer as defined in s. 493.6101. The security officer must  
328 wear a uniform that bears at least one patch or emblem that is  
329 visible at all times and clearly displays his or her employing



113398

330 agency and identity as a licensed security officer.

331 (b) Notify the municipality within 20 days after accepting  
332 a resident who has been discharged from the criminal justice  
333 system or who has a history of criminal arrest within the past 5  
334 years.

335 (c) Maintain surveillance cameras on the premises  
336 sufficient to ensure the safety of its residents and the  
337 community at large.

338 (d) Maintain a log of residents who have been discharged  
339 from the criminal justice system or who have a history of  
340 criminal arrest within the past 5 years. The log must contain  
341 the name of the transferring department and the previous address  
342 for each such resident. The facility or home shall require  
343 residents to sign the log each time they enter or exit the  
344 premises. The facility shall send a copy of the log to the chief  
345 administrative officer of the municipality in which the facility  
346 is located on a quarterly basis and shall keep the log current,  
347 maintain it in an accessible area on the premises, and allow its  
348 inspection or copying within 45 days of a request by the  
349 municipality.

350  
351 ===== T I T L E A M E N D M E N T =====

352 And the title is amended as follows:

353 Delete lines 41 - 79

354 and insert:

355 resident right; amending s. 419.001, F.S.; prohibiting  
356 the colocation of a home of six or fewer residents  
357 which otherwise meets the definition of a community  
358 residential home and a community residential home



113398

359 within a certain distance; requiring the measuring of  
360 certain distances between community residential homes;  
361 amending s. 429.07, F.S.; revising the requirement  
362 that an extended congregate care license be issued to  
363 certain facilities that have been licensed as assisted  
364 living facilities under certain circumstances and  
365 authorizing the issuance of such license if a  
366 specified condition is met; providing the purpose of  
367 an extended congregate care license; specifying that  
368 the initial extended congregate care license of an  
369 assisted living facility is provisional under certain  
370 circumstances; requiring a licensee to notify the  
371 Agency for Health Care Administration if it accepts a  
372 resident who qualifies for extended congregate care  
373 services; requiring the agency to inspect the facility  
374 for compliance with the requirements of an extended  
375 congregate care license; requiring the issuance of an  
376 extended congregate care license under certain  
377 circumstances; requiring the licensee to immediately  
378 suspend extended congregate care services under  
379 certain circumstances; requiring a registered nurse  
380 representing the agency to visit the facility at least  
381 twice a year, rather than quarterly, to monitor  
382 residents who are receiving extended congregate care  
383 services; authorizing the agency to waive one of the  
384 required yearly monitoring visits under certain  
385 circumstances; authorizing the agency to deny or  
386 revoke a facility's extended congregate care license;  
387 requiring a registered nurse representing the agency



113398

388 to visit the facility at least annually, rather than  
389 twice a year, to monitor residents who are receiving  
390 limited nursing services; providing that such  
391 monitoring visits may be conducted in conjunction with  
392 other inspections by the agency; authorizing the  
393 agency to waive the required yearly monitoring visit  
394 for a facility that is licensed to provide limited  
395 nursing services under certain circumstances;  
396 reenacting s. 393.501(2), F.S., to incorporate the  
397 amendment made to s. 419.001, F.S., in references  
398 thereto; reenacting ss. 429.22(1)(a) and 429.26(5),  
399 F.S., to incorporate the amendment made to s. 429.07,  
400 F.S., in references thereto; reenacting s. 409.212(2),  
401 F.S., to incorporate the amendment made to s. 429.075,  
402 F.S., in references thereto; amending s. 429.075,  
403 F.S.; requiring that an assisted living facility that  
404 serves one or more mental health residents, rather  
405 than three or more such residents, obtain a limited  
406 mental health license; requiring the adoption, use and  
407 maintenance of certain security measures and practices  
408 by assisted living facilities in municipalities having  
409 a population greater than 200,000; amending s.