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.)

BILL: CS/SB 1706

SPONSOR: Children and Families Committee and Senator Wise

SUBJECT: Specialty behavioral healthcare providers

DATE: March 12, 2004 REVISED: _____ _____ _____ _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Collins	Whiddon	CF	Fav/CS
2.			HC	
3.			AHS	
4.			AP	
5.				
6.				

I. Summary:

Assisted living facilities (ALFs) provide housing, meals, and personal assistance to frail elders and persons with physical and mental disabilities who need support to live in the community but do not require institutionalization. Residents with mental illness receive personal services from the facilities and mental health services from local community mental health centers. Any ALF serving three or more mental health residents is required under s. 400.4075, F.S., to obtain a limited mental health license.

The Committee Substitute for SB 1706 directs the Department of Children and Family Services (the department or DCF) to establish a demonstration project in District 4 for the purpose of determining the benefits of having a specialty behavioral health care provider deliver behavioral health services to residents of an assisted living facility with a limited mental health license.

The bill further directs the department to establish a workgroup and specifies the membership of that workgroup. The workgroup is directed to develop the request for proposal and recommend the standards criteria, and array of services to be included in the procurement document used to select the specialty behavioral health care provider.

The Agency for Health Care Administration (AHCA) is directed to authorize the selected behavioral health care provider to negotiate a capitated payment for the demonstration project's behavioral healthcare services if a managed care system is implemented in District 4.

The Office of Program Policy Analysis and Government Accountability (OPPAGA) is directed to conduct an evaluation of the demonstration project and submit a report to the Legislature by January 1, 2008.

This bill amends section 394.4574, of the Florida Statutes.

II. Present Situation:

Assisted living facilities (ALFs) provide housing, meals, and personal assistance to frail elders and persons with physical and mental disabilities who need support to live in the community but do not require institutionalization (chapter 400, Part III, F.S.). Facility staff provide supervision to residents, including oversight of their diet, activities, general whereabouts, and activities of daily living. These facilities are licensed by the Agency for Health Care Administration (AHCA).

In 1995, the Legislature established limited mental health specialty licensure for ALFs that serve residents with mental illness. Any ALF that serves three or more mental health residents is required under s. 400.4075, F.S., to obtain a limited mental health license. Residents with mental illness receive personal services from the facilities and mental health services from local community mental health centers. Cooperative arrangements are made between ALF staff and local mental health treatment providers to provide mental health residents with emergency and after hours services when they are needed. Department staff at the district level are responsible for ensuring mechanisms are in place to provide appropriate services to ALF residents with mental health problems.

There are currently more than 75,000 ALF beds statewide in 2,250 facilities. There are 675 ALF providers in the state holding a limited mental health license; approximately 8,500 individuals with mental illness live in these facilities. In District 4, there are 24 ALFs with limited mental health licenses with approximately 480 residents living in these facilities.[1]

Since 1996, at least two reports to the Florida Legislature have raised concerns about the provision of behavioral health (mental health and substance abuse) services for residents living in ALFs.[2] Specific concerns have been raised regarding the adequacy of available placement resources for mental health clients and the adequacy of services available to support community placement options for individuals with severe mental illnesses. The availability of after-hours mental health coverage is also a problem that is frequently cited by ALF administrators.

Efforts have been made to address concerns relating to the provision of mental health and substance abuse services to residents of ALFs. The interface between the publicly funded mental health and substance abuse system and ALFs was one area focused on by The Behavioral Health Services Integration Workgroup, which was established by the 2001 Legislature. As a result of recommendations by this workgroup, further study was conducted by the Louis de la Parte Florida Mental Health Institute (FMHI) resulting in the report *Behavioral Health Services Integration: Assisted Living Facility Study,* 2003. Some of the findings from this report indicate the following:

- There are mixed opinions concerning whether ALF residents receive the mental health services they need. Most residents, case managers and direct care staff are satisfied with

[1] Based upon information obtained from the Department of Children and Families.
[2] Review of Assisted Living Facilities Serving Residents with Severe Mental Illness, 1997, OPPAGA Report No. 96-57 and Follow-Up Report on Assisted Living Facilities Serving Residents with Severe Mental Illnesses, 1998, OPPAGA Report No. 98-27.

the availability of mental health services. However, the majority of administrators are not satisfied with the availability of these services.
- Administrators, case managers, and direct care staff are not satisfied with the availability of substance abuse services.
- Most residents would like to receive substance abuse services such as Alcoholics Anonymous, group therapy, or counseling.

In spite of the information contained in this report, the extent of difficulty that is encountered in obtaining mental health services for persons with mental illness who reside in an ALF remains unclear, largely due to the lack of available data. Unfortunately, there is no single standard assessment system or data base maintained for ALFs. Information pertaining to ALFs is maintained separately by the department and AHCA which has made it difficult to obtain cohesive, critical information since at least 1996.[3] A recent FMHI report recommended the following: *"In order to collect information on the provision of behavioral health services to ALF residents, we recommend the Department of Children and Families modify and improve its data/information system by identifying a place of residence for recipients of behavioral health services. By doing so, the number, type, and cost of services received by ALF residents can be identified by cross-linkage with Medicaid, and perhaps, Medicare data."*[4]

III. Effect of Proposed Changes:

The Committee Substitute for SB 1706 directs the Department of Children and Family Services to establish a demonstration project in District 4 for the purpose of determining the benefits of having a specialty behavioral health care provider deliver behavioral health services to residents of an assisted living facility with a limited mental health license. The purpose of this demonstration project is to develop evidence based practices in the delivery of state-funded behavioral health care services to persons who reside in an ALF with a limited mental health license. This committee substitute specifies that participation in the program of fee-for-service options is voluntary for Medicaid residents and recipients of state-funded services. The Agency for Health Care Administration indicates that it will need to request a waiver for this demonstration project.

The department is directed to create an advisory committee to make recommendations to AHCA and the department pertaining to the demonstration project. DCF is further directed to develop the demonstration project in consultation with AHCA. The committee is directed to solicit input from a variety of sources relative to the standards, criteria, and array of services that will be included in the demonstration project. The department reports that it does not have the authority to develop a demonstration project utilizing AHCA funding.

This committee substitute directs that membership of the advisory committee is to consist of local community partners including residents, advocates, private and publicly funded health care providers, representatives from AHCA, DCF, and local government facility administrators. The committee substitute further authorizes the inclusion of a number of other committee members. The maximum number of members permitted to serve on this advisory committee is not

[3] Review of Assisted Living Facilities Serving Residents with Severe Mental Illness, 1997, OPPAGA Report No. 96-57.
[4] Behavioral Health Services Integration: Assisted Living Facility Study, Anderson, S., Schonfield, L., FMHI, University of South Florida, Fl. (2003).

specified. Concerns have been expressed that the group may become too large to be effective and that the composition of the membership is not appropriate to complete the tasks required of the committee. CS/SB 1706 does not address how long this committee will be in existence, whether it will dissolve upon completing the required tasks, or how many times the group will be required to meet. The bill does not specify who will bear the costs associated with the group.

For the purposes of this legislation, the term "specialty behavioral health provider" means a public or private behavioral health care entity, provider, or organization or coalition of providers that holds a contract with the department and can offer a full array of state-funded behavioral health care services to residents living in ALFs in district four holding a limited mental health license. The committee substitute specifies that services are to be provided directly by the specialty behavioral health provider on a fee-for-service basis. The department is directed to allow private providers an opportunity to seek a contract and compete to provide state-funded behavioral health services. Residents living in ALFs currently receive mental health services on a fee-for-service basis.

The committee substitute requires that AHCA and the department ensure that providers participating in the demonstration project develop and implement a plan to provide certain services. These services include intensive case management services, on-call case managers, and vocational support. The committee substitute further specifies that any services provided as a part of the demonstration project must be fee-for-service and cost neutral for AHCA and the department. The department, in consultation with AHCA, is directed to use a request for information process to procure specialty behavioral health providers. It is anticipated that a request for information process will be more economical than a competitive bid process.

This committee substitute directs that DCF and AHCA, for the purposes of this demonstration project, must allow any behavioral health care provider meeting the requirements of the demonstration project to become a specialty behavioral health care provider for Medicaid-eligible residents who are enrolled in the Medipass program. Each eligible provider must be permitted to seek and develop cooperative agreements with administrators of the facilities for a minimum period of one year. These agreements are to be focused on improving the coordination of services and communication, developing protocols to assist with supervision of the residents' clinical needs, and meeting all other provisions currently required under existing statute.

The Agency for Health Care Administration is directed to seek federal waivers to implement a prepaid behavioral health care plan for residents in District 4 who live in an ALF with a limited mental health license, if a prepaid behavioral health plan is introduced in District 4. The bill further specifies that the capitation rate must be based on 90 percent of the historical utilization of Medicaid funding by this population and that the services provided must include all outpatient state-funded behavioral health care services and inpatient psychiatric **s**ervices. Medications are to be exempt from these provisions.

The department and AHCA are further directed to calculate a rate for the non-Medicaid residents served in the demonstration area in order to ensure that the capitation rate does not result in the displacement of residents.

The direction to carve out certain areas or populations for a capitated payment system is contrary to previous direction provided by the 2003 Legislature requiring the implementation of a single managing entity to deliver behavioral healthcare services (ch. 2003-279, L.O.F.). Further, there is no precedent for developing a capitated rate for any particular subgroup.

This committee substitute specifies that the demonstration project be implemented no later than January 1, 2005, and that the project be continued for no less than three years following implementation. However, AHCA reports that they would be required to request a waiver from the federal government in order to implement the provisions of this bill, a process which is projected to take more than a year to complete.

This committee substitute also requires that the Office of Program Policy Analysis and Government Accountability (OPPAGA) conduct an evaluation of the demonstration project. The evaluation must assess the recidivism of patients from the assisted living facility to the inpatient state hospital, improvement in behavioral health care outcomes, patient satisfaction with care, improvements in program competencies and linkages, increased tenure of case management relationships with residents, and implementation of meaningful plans of recovery. OPPAGA is directed to prepare a report and submit a copy to President of the Senate and the Speaker of the House of Representatives by January 1, 2008.

If a federal waiver is obtained for this demonstration project, the project must be evaluated within two years of its implementation. However, the OPPAGA report will not meet this requirement as it is being conducted three years following the implementation of the demonstration project. Therefore, an independent evaluation would have to be contracted.

This bill takes effect July 1, 2004.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Senate Bill 1706 requires membership from the private sector for the proposed workgroup: five ALF administrators, one person from the Florida Psychiatric Society, one person from the Florida Council for Behavioral Health, a member of the National Alliance for the Mentally Ill, a member of the Florida Hospital Association, and a member of the Florida Assisted Living Association. It is unclear how the costs they would incur by serving on the workgroup would be paid.

C. Government Sector Impact:

The Agency for Health Care Administration reports that it will cost approximately $100,000 to pay for an evaluation of the demonstration project if a federal waiver is obtained, unless the OPPAGA evaluation is conducted at an earlier date.

The Department of Children and Families indicates there will be administrative costs to the department to organize and staff the workgroup, develop the bid specifications, and monitor the implementation of the demonstration project.

If the service package that the workgroup develops as a requirement for the provider includes services other than those covered by Medicaid, funding will be required to pay for these additional services.

The Agency for Health Care Administration indicates General Revenue funds of $75,000 would be required for match to draw down federal funds.

The Agency for Health Care Administration indicates there will be a workload increase that will require an additional FTE to carry out the provisions of this bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The demonstration project described in this bill is not consistent with the legislative priorities identified by the Florida Assisted Living Affiliation (FALA) Legislative and Mental Health Committees.

The Agency for Health Care Administration reports that it will have to apply to the federal Centers for Medicare and Medicaid Services for a 1915(b) waiver in order to implement this bill.

The department indicates that estimates of utilization have found that persons with mental illness who reside in ALFs may receive as many as four times the units of service as persons receiving state funded behavioral health services in other settings.

The term "behavioral health services" generally includes both mental health and substance abuse services. At this time, the Agency for Health Care Administration is capitating only mental health services.

Facilities that are larger than 16 beds which are primarily engaged in the care or treatment of persons diagnosed with mental illness are defined under federal Medicaid law as "institutions for mental disease" (IMD). Persons who reside in IMDs have their Medicaid benefits suspended. Providing a large volume of mental health services within an ALF may increase the likelihood that the facility may be defined as an IMD. However, this requirement does not prevent persons from receiving mental health services in other settings.

District 4 is currently the pilot site for two other projects (an In Depth Technical Assistance Grant to help improve substance abuse services for families involved in the child welfare system, and a pilot to "develop a project for a single managing entity to provide substance abuse services to families in the child protection system" that is directed by the Legislature). The creation of an additional pilot in this area that requires coordination and oversight by department staff may exceed current departmental capacity.

VIII. Amendments:

None.