

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 Health Policy

BILL: SB 1154

INTRODUCER: Senator Soto

SUBJECT: Nursing Home Guide Watch List

DATE: April 4, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Stovall	HP	Favorable
2.			CA	
3.			CF	
4.			RC	

I. Summary:

SB 1154 requires that any nursing home that is placed on the Agency for Health Care Administration's (AHCA) nursing home guide watch list to clearly and conspicuously post a sign indicating that the facility is on the watch list at every entrance. If the AHCA determines that the facility violated the posting requirement, the AHCA must cite the facility for a class I violation and place the facility on a 6-month inspection visit cycle. The bill also requires any facility placed on the watch list to provide written or electronic notification to the primary familial contact of each resident that the facility is on the watch list.

II. Present Situation:

Nursing homes provide 24 hours a day nursing care; case management; health monitoring; personal care; nutritional meals and special diets; physical, occupational, and speech therapy; social activities; and respite care for those who are ill or physically infirm. Nursing homes are regulated under part II of ch. 400, F.S., by the AHCA.¹

The Nursing Home Guide Watch List

Section 400.191(a), F.S., requires the AHCA to publish a Nursing Home Guide Watch List in the Nursing Home Guide. The Nursing Home Guide as a whole lists nursing homes and includes facility-specific comparative information including a star ranking based upon deficiencies cited during inspections.² The Nursing Home Guide Watch List identifies nursing homes that are operating under bankruptcy protection or met the criteria for a conditional licensure status during the past 30 months. A facility's conditional licensure status indicates that a facility did not meet,

¹ AHCA, *Nursing Home Care in Florida*, http://www.floridahealthfinder.gov/reports-guides/NursingHomesFL.aspx#_The_Nursing_Home, last visited on April 7, 2014.

² AHCA, *Nursing Home Information*, http://www.fdhc.state.fl.us/Nursing_Home_Guide/, last visited on April 4, 2014.

or correct upon follow-up, minimum standards at the time of an inspection. Facilities may challenge a conditional license and watch list information is subject to change as these appeals are processed.

The watch list includes, among other things, a description of the deficiency causing the facility to be on the list, any corrective action taken, and the cumulative number of days and percentage of days the facility had a conditional license in the past 30 months.³ The watch list information is updated by the AHCA daily.⁴ There are currently 133 nursing homes on the Nursing Home Guide Watch List.⁵

Class I Violations and Conditional Licensure

Nursing homes that have violated the requirements of their license are subject to the administrative penalties detailed in s. 400.23(8)(a), F.S. These penalties are divided into four categories of deficiencies ranging from class I, which are the most serious, to class IV, which are generally related to paper-work. A facility must be cited for a class I violation in a situation in which immediate corrective action is necessary because the facility's noncompliance has caused, or is likely to cause, serious injury, harm, impairment, or death to a resident receiving care in a facility. Section 400.23(8)(a), F.S., provides that a nursing home must be fined between \$10,000 and \$15,000 per deficiency depending on how widespread the deficiency and that the fine must also be doubled if the nursing home was previously cited for one or more class I or II deficiencies in the previous licensure inspection.

Generally, the AHCA inspects nursing homes every 9 to 15 months, or when a complaint is received that warrants an inspection. When deficiencies are found during an inspection, the AHCA will schedule a follow up inspection to ensure that the deficiencies are corrected. The AHCA must classify a nursing home's license as conditional if the facility is not in compliance with its licensure requirements at the time of an inspection due to one or more class I, II, or uncorrected class III deficiencies. The nursing home will subsequently return to full licensure if no deficiencies are found to exist during a future survey. A facility may also be placed on a 6-month survey cycle for a period of 2 years if that facility was cited for one class I deficiency, two or more class II deficiencies arising from separate surveys within a 60-day period, or has had three or more substantiated complaints within a 6-month period.⁶

III. Effect of Proposed Changes:

SB 1154 amends s. 400.191, F.S., to require a nursing home that is placed on the Nursing Home Guide Watch List to post "NOTICE: THIS FACILITY IS CURRENTLY ON FLORIDA'S NURSING HOME GUIDE WATCH LIST" conspicuously at every facility entrance for the duration of time the facility is on the watch list. If the AHCA finds that the facility has violated

³ Section 400.191(3)(a), F.S.

⁴ Supra n. 2

⁵ See AHCA, *Florida Health Finder*,

<http://www.floridahealthfinder.gov/facilitylocator/ListFacilities.aspx?st=11&ssid=2BD5DD48-280B-42D0-AB52-8F65508AF82D>, last visited on April 4, 2014.

⁶ Email with Bernard Hudson, AHCA Long Term Care Unit Manager, April 7, 2014, on file with Health Policy Committee staff.

this notice requirement it must cite the facility for a class I deficiency and place the facility on a 6-month inspection visit cycle.

The bill also requires a nursing home placed on the watch list to notify the primary familial contact of each resident that the facility has been placed on the watch list. The notice may be sent by mail or electronically and must include a description of the deficiency that caused the nursing home to be placed on the watch list, any corrective action taken, and the cumulative number of days and percentage of days that the facility has had a conditional license in the past 30 months.

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:

Nursing homes on the Nursing Home Guide Watch List may be fined between \$10,000 and \$15,000 if found to be in violation of the posting requirements of the bill. If the nursing home was previously cited for a class I or II violation the fine may be between \$20,000 and \$30,000.

C. Government Sector Impact:

The AHCA may see additional revenue from the fines imposed as a result of violations of the posting requirements in SB 1154.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Class I deficiencies are those deficiencies that the agency determines presents a situation in which immediate corrective action is necessary because the facility's noncompliance has caused,

or is likely to cause, serious injury, harm, impairment, or death to a resident receiving care in a facility. As such, violating the posting requirement in the bill does not seem to create a situation in which immediate corrective action is necessary in order to prevent serious injury, harm, impairment, or death to a resident. It may be appropriate to lower the severity of the penalty imposed for such violations.

VIII. Statutes Affected:

This bill substantially amends section 400.191 of the Florida Statutes.

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.