

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 Appropriations

BILL: CS/SB 184

INTRODUCER: Appropriations Committee and Senator Book

SUBJECT: Aging Programs

DATE: March 11, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hendon</u>	<u>Hendon</u>	<u>CF</u>	Favorable
2.	<u>McKnight</u>	<u>Kidd</u>	<u>AHS</u>	Recommend: Favorable
3.	<u>McKnight</u>	<u>Kynoch</u>	<u>AP</u>	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 184 moves rule making authority for certain programs from the Department of Elder Affairs (DEA) to the Agency for Health Care Administration (AHCA). These programs include hospice care, assisted living facilities, adult family care homes, and adult day care programs. Currently both agencies develop rules, while licensing and inspection is solely performed by the AHCA. The bill makes no substantive changes to the requirements of these programs.

The bill has no fiscal impact and has an effective date of July 1, 2019.

II. Present Situation:

When the Department of Health and Rehabilitative Services was transformed into the Department of Children and Families (DCF), many duties and programs were moved to the newly created Agency for Health Care Administration (AHCA) and the Department of Elder Affairs (DEA). For hospice care, assisted living facilities, adult family care homes, and adult day care programs, duties for rule making were split between the AHCA and the Department of Elder Affairs (DEA). Over time this has created operational challenges due to the regulating agency (the AHCA) enforcing rules that it did not write. Both agencies have proposed changes to this arrangement to the Legislature to place all rule writing authority with the AHCA.

Hospice Care

Hospice care is provided to terminally ill patients. Providers of hospice care are regulated by federal and state law and are licensed by the AHCA. The DEA is responsible for certain rule making. Each hospice must provide a continuum of hospice services that afford the patient and the family of the patient a range of service delivery tailored to the specific needs and preferences of the patient and family at any point in time throughout the length of care for the terminally ill patient and during the bereavement period. These services must be available 24 hours a day, 7 days a week, and must include: nursing services, social work services, pastoral or counseling services, dietary counseling, and bereavement counseling services.¹ Physician services may be provided by the hospice directly or through contract. A hospice may also use contracted staff if necessary to supplement hospice employees in order to meet the needs of patients during periods of peak patient loads or under extraordinary circumstances. Each hospice must also provide or arrange for such additional services as are needed to meet all the palliative and support needs of the patient and family. These services may include, but are not limited to, physical therapy, occupational therapy, speech therapy, massage therapy, home health aide services, infusion therapy, provision of medical supplies and durable medical equipment, day care, homemaker and chore services, and funeral services. There are 47 licensed hospice providers with a total of 1,016 beds in Florida.²

Assisted Living Facilities

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.³ A personal service is direct physical assistance with, or supervision of, the activities of daily living and self-administration of medication.⁴ Activities of daily living include ambulation, bathing, dressing, eating, grooming, toileting, and other similar tasks.⁵ ALFs are licensed by the AHCA. Both the agency and the DEA have rule making duties.

An ALF is required to provide care and services appropriate to the needs of the residents accepted for admission to the facility.⁶ The owner of facility administrator determines whether an individual is appropriate for admission to the facility based on a number of criteria.⁷ If, as determined by the facility administrator or health care provider, a resident no longer meets the criteria for continued residency or the facility is unable to meet the resident's needs, the resident must be discharged in accordance with the Resident Bill of Rights.⁸ There are 3,086 licensed ALFs in Florida with a total of 105,144 beds.⁹

¹ See part IV of Chapter 400, F.S.

² Agency for Health Care Administration, Florida Health Finder, see <http://www.floridahealthfinder.gov/index.html>, last visited February 12, 2019.

³ Section 429.02(5), F.S.

⁴ Section 429.02(16), F.S.

⁵ Section 429.02(1), F.S.

⁶ For specific minimum standards see Fla. Admin. Code R 58A-5.0182.

⁷ Section 429.26, F.S., and Fla. Admin. Code R 58A-5.0181.

⁸ Section 429.28, F.S.

⁹ Agency for Health Care Administration, Florida Health Finder, see <http://www.floridahealthfinder.gov/index.html>, last visited February 12, 2019.

Adult Family Care Homes

Adult family care homes are residential homes designed to provide personal care services to individuals requiring assistance. The provider must live in the home and offer personal services for up to five residents.¹⁰ Adult family care homes are licensed by the AHCA. Both the agency and the DEA have rule making duties. There are 337 licensed adult family care homes with 1,528 beds in Florida.¹¹

Adult Day Care Centers

Adult day care centers provide therapeutic programs of social and health services as well as activities for adults in a non-institutional setting.¹² Participants may use a variety of services offered during any part of a day, but less than a 24-hour period. Adult day care centers are licensed by the AHCA. Both the AHCA and the DEA have rule making duties. There are 326 licensed adult day care centers with 17,636 beds in Florida.¹³

III. Effect of Proposed Changes:

Section 1 transfers all powers, duties, budget, personnel, and administrative authority, including administrative rulemaking, related to hospices, assisted living facilities, adult family care homes, and adult day care centers, supporting certain regulatory functions from the Department of Elder Affairs to the Agency for Health Care Administration.

Section 2 amends s. 20.41, F.S., relating to the Department of Elder Affairs, to require the agency to provide any needed information on hospice care, assisted living facilities, adult day care centers and adult family care homes to the Agency for Health Care Administration.

Section 3 amends s. 20.42, F.S., relating to the Agency for Health Care Administration, to assign the AHCA with the lead responsibility for regulation of hospice care, assisted living facilities, adult day care centers and adult family care homes.

Section 4 amends s. 400.605, F.S., relating to hospice regulation, to remove the requirements for the Department of Elder Affairs to consult with the Agency for Health Care Administration.

Section 5 amends s. 400.60501, F.S., relating to hospice annual reports, to transfer the responsibility to collect and produce such reports from the Department of Elder Affairs to the Agency for Health Care Administration.

¹⁰ See part II of Chapter 429, F.S.

¹¹ Agency for Health Care Administration, Florida Health Finder, see <http://www.floridahealthfinder.gov/index.html>, last visited February 12, 2019.

¹² See part III of Chapter 429, F.S.

¹³ Agency for Health Care Administration, Florida Health Finder, see <http://www.floridahealthfinder.gov/index.html>, last visited February 12, 2019.

Section 6 amends s. 400.6095, F.S., relating to hospice admissions, to conform to the transfer of responsibilities from the Department of Elder Affairs to the Agency for Health Care Administration.

Section 7 amends s. 400.610, F.S., relating to hospice administration, to conform to the transfer of responsibilities from the Department of Elder Affairs to the Agency for Health Care Administration.

Section 8 amends s. 429.02, F.S., relating to definitions used in chapter 429 on assisted living facilities to conform to the transfer of responsibilities from the Department of Elder Affairs to the Agency for Health Care Administration.

Section 9 amends s. 429.17, F.S., relating to assisted living facility licenses, to conform to the transfer of responsibilities from the Department of Elder Affairs to the Agency for Health Care Administration.

Section 10 amends s. 429.23, F.S., relating to assisted living facility risk management, to conform to the transfer of responsibilities from the Department of Elder Affairs to the Agency for Health Care Administration.

Section 11 amends s. 429.24, F.S., relating to assisted living facility contracts, to conform to the transfer of responsibilities from the Department of Elder Affairs to the Agency for Health Care Administration.

Section 12 amends s. 429.255, F.S., relating to assisted living facility personnel and emergency care, to conform to the transfer of responsibilities from the Department of Elder Affairs to the Agency for Health Care Administration.

Section 13 amends s. 429.256, F.S., relating to assistance with self-administration of medication in an assisted living facility, to conform to the transfer of responsibilities from the Department of Elder Affairs to the Agency for Health Care Administration.

Section 14 amends s. 429.27, F.S., relating to personal property of residents in assisted living facilities, to conform to the transfer of responsibilities from the Department of Elder Affairs to the Agency for Health Care Administration.

Section 15 amends s. 429.275, F.S., relating to financial records of an assisted living facility, to conform to the transfer of responsibilities from the Department of Elder Affairs to the Agency for Health Care Administration.

Section 16 amends s. 429.31, F.S., relating to the closing of an assisted living facility, to conform to the transfer of responsibilities from the Department of Elder Affairs to the Agency for Health Care Administration.

Section 17 amends s. 429.34, F.S., relating to the right to enter and inspect an assisted living facility to conform to the transfer of responsibilities from the Department of Elder Affairs to the Agency for Health Care Administration.

Section 18 amends s. 429.41, F.S., relating to assisted living facility licensing standards, to conform to the transfer of responsibilities from the Department of Elder Affairs to the Agency for Health Care Administration. The bill deletes outdated language requiring the department to submit a copy of its rules to the Legislature.

Section 19 amends s. 429.42, F.S., relating to assisted living facility pharmacy and dietary services, to conform to the transfer of responsibilities from the Department of Elder Affairs to the Agency for Health Care Administration.

Section 20 amends s. 429.52, F.S., relating to assisted living facility staff training, to conform to the transfer of responsibilities from the Department of Elder Affairs to the Agency for Health Care Administration.

Section 21 amends s. 429.54, F.S., relating to the collection of data on assisted living facility costs, to conform to the transfer of responsibilities from the Department of Elder Affairs to the Agency for Health Care Administration.

Section 22 amends s. 429.63, F.S., providing legislative intent on adult family care home licensure, to conform to the transfer of responsibilities from the Department of Elder Affairs to the Agency for Health Care Administration.

Section 23 amends s. 429.67, F.S., relating to licensure of adult family care homes, to conform to the transfer of responsibilities from the Department of Elder Affairs to the Agency for Health Care Administration.

Section 24 amends s. 429.71, F.S., relating to licensure deficiencies in adult family care homes, to conform to the transfer of responsibilities from the Department of Elder Affairs to the Agency for Health Care Administration.

Section 25 amends s. 429.73, F.S., relating to licensure standards for adult family care homes, to conform to the transfer of responsibilities from the Department of Elder Affairs to the Agency for Health Care Administration.

Section 26 amends s. 429.75, F.S., relating to training and education programs for adult family care homes providers, to conform to the transfer of responsibilities from the Department of Elder Affairs to the Agency for Health Care Administration.

Section 27 amends s. 429.81, F.S., relating to resident agreements in adult family care homes, to conform to the transfer of responsibilities from the Department of Elder Affairs to the Agency for Health Care Administration.

Section 28 amends s. 429.917, F.S., relating to staff training requirements and certain disclosures for adult day care centers with Alzheimer's disease or other related disorders patients, to conform to the transfer of responsibilities from the Department of Elder Affairs to the Agency for Health Care Administration.

Section 29 amends s. 429.918, F.S., relating to licensure designation as a specialized Alzheimer's services adult day care center, to conform to the transfer of responsibilities from the Department of Elder Affairs to the Agency for Health Care Administration.

Section 30 amends s. 429.929, F.S., relating to standards for adult day care centers, to conform to the transfer of responsibilities from the Department of Elder Affairs to the Agency for Health Care Administration.

Section 31 amends s. 765.110, F.S., relating to health care advance directives, to conform to the transfer of responsibilities from the Department of Elder Affairs to the Agency for Health Care Administration.

Section 32 provides an effective date of July 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

CS/SB 184 has no fiscal impact to the state. The bill requires the transfer of all budget, salary rate, and personnel used in the development of rules for specified aging programs from the Department of Elder Affairs to the Agency for Health Care Administration.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 20.41, 20.42, 400.605, 400.60501, 400.6095, 400.610, 429.02, 429.17, 429.23, 429.24, 429.255, 429.256, 429.27, 429.275, 429.31, 429.34, 429.41, 429.42, 429.52, 429.54, 429.63, 429.67, 429.71, 429.73, 429.75, 429.81, 429.917, 429.918, 429.929, and 765.110.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Appropriations on March 7, 2019:**

The committee substitute:

- Transfers additional rule authority, chapter 58T-1, Florida Administrative Code, from the DOEA to the AHCA;
- Moves the licensure and staff training requirements for adult day care centers that specialize in Alzheimer's disease or a dementia-related disorder (ARD) under s. 429.917 and s. 429.918, F.S., from the DOEA to the AHCA; and
- Alters adult day care center training requirements for employees and direct caregivers working with patients who have ARD, as well as the education and supervisory experience requirements for a center's licensed operator and if applicable, the operator's designee.

B. Amendments:

None.