

**STORAGE NAME:** h1207s1.hcc.doc

**DATE:** March 5, 2002

**HOUSE OF REPRESENTATIVES  
COUNCIL FOR HEALTHY COMMUNITIES  
ANALYSIS**

**BILL #:** CS/HB 1207

**RELATING TO:** Florida's Alzheimer's Training Act

**SPONSOR(S):** Council for Healthy Communities and Representative Gibson

**TIED BILL(S):** None.

**ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:**

- (1) HEALTH REGULATION YEAS 7 NAYS 0
- (2) HEALTH & HUMAN SERVICES APPROPRIATIONS YEAS 13 NAYS 0
- (3) COUNCIL FOR HEALTHY COMMUNITIES YEAS 14 NAYS 0
- (4)
- (5)

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I. SUMMARY:

THIS DOCUMENT IS NOT INTENDED TO BE USED FOR THE PURPOSE OF CONSTRUING STATUTES, OR TO BE CONSTRUED AS AFFECTING, DEFINING, LIMITING, CONTROLLING, SPECIFYING, CLARIFYING, OR MODIFYING ANY LEGISLATION OR STATUTE.

CS/HB 1207 establishes dementia specific training requirements for employees of four types of health care facilities: home health agencies, adult day care centers, adult family care homes, and hospices as a condition of licensure.

The bill requires the Department of Elder Affairs to adopt rules, establish standards for trainers and training, review and approve training providers and training curricula, and maintain a current list of approved training providers. Provisions allow that training received from one facility type, such as in a nursing home, may be accepted for the training requirements for another facilities, in the event the employee moves from one facility to another.

According to the Department of Elder Affairs, the fiscal impact of the bill is \$79,069 in Fiscal Year 2002–2003 and \$187,785 in FY 2003–04.

The bill provides for an effective date of July 1, 2002.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- |                                   |   |  |   |
|-----------------------------------|---|--|---|
| 1. <u>Less Government</u>         | Yes <input type="checkbox"/>            | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/>            |
| 2. <u>Lower Taxes</u>             | Yes <input type="checkbox"/>            | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u>      | Yes <input type="checkbox"/>            | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/>            |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/>            | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u>      | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/>            | N/A <input type="checkbox"/>            |

For any principle that received a "no" above, please explain:

Less Government: HB 1207 creates additional governmental regulation and provides duplicate authority among state agencies.

Individual Freedom: Facilities will incur additional cost in providing service with the additional training requirements and restrict their ability to provide training based on clientele.

B. PRESENT SITUATION:

In Florida, February 6<sup>th</sup> of each year is designated as Florida Alzheimer's Day, as set forth in s. 683.24, F.S.

Alzheimer's disease is a progressive, irreversible brain disorder with no known cause or cure. It attacks and slowly steals the minds of its victims. Symptoms of the disease include memory loss, confusion, impaired judgment, personality changes, disorientation, and loss of language skills. Always fatal, Alzheimer's disease is the most common form of irreversible dementia. How rapidly it advances varies from person to person, but the brain disease eventually causes confusion, personality and behavior changes and impaired judgment. Communication becomes difficult as the affected person struggles to find words, finish thoughts or follow directions. Eventually, most people with Alzheimer's become unable to care for themselves.

Approximately 100,000 victims die and 360,000 new cases of Alzheimer's disease are diagnosed each year in the United States. It is estimated that by 2050, 14 million Americans will have this disease. In every nation where life expectancy has increased, so has the incidence of Alzheimer's disease, and in Florida, as our population ages, the incidents of Alzheimer's rises. It is estimated that by 2020, 30 million people will be affected by this devastating disorder worldwide; and by 2050, the number could increase to 45 million.

There is no known treatment that will cure Alzheimer's disease. For those who are currently suffering with the disease, medications can only help control symptoms and/or slow the progression of the disease.

The Florida Department of Elder Affairs has developed the Alzheimer's Disease Initiative (ADI), which provides services to address the special needs of individuals suffering from Alzheimer's Disease and related memory disorders and their caregivers. Respite care (caregiver relief) services are provided in all 67 counties of the state.

The program also provides funding for research into the cause, prevention, treatment and cure of Alzheimer's Disease. There are thirteen state-funded memory disorder clinics in Florida providing medical diagnosis and treatment for victims, as well as training for caregivers. Three counties have model day care programs in conjunction with three of the university medical school memory disorder clinics. Research is also done through the brain bank located at the Wien Center at Mt. Sinai Medical Center in Miami.

The Agency for Health Care Administration (AHCA) administers the *Quality of Long-Term Care Facility Improvement Trust Fund*, as set forth in s. 400.0239, F.S. The provisions in this section of law provide funding to support activities and programs directly related to improvement of the care of nursing home and assisted living facility residents. Expenditures from the fund go toward the development and implementation of specialized training programs for long-term care facility personnel who provide direct care for residents with Alzheimer's disease and other dementias, among other requirements.

Section 400.1755, F.S., set forth the Alzheimer's training requirements for nursing homes and specifies that: "as a condition of licensure, facilities licensed under this part must provide to each of their employees, upon beginning employment, basic written information about interacting with persons with Alzheimer's disease or a related disorder.

- All employees who are expected to, or whose responsibilities require them to, have direct contact with residents with Alzheimer's disease or a related disorder must, in addition to being provided the information required, also have an initial training of at least 1 hour completed in the first 3 months after beginning employment. This training must include, but is not limited to, an overview of dementias and must provide basic skills in communicating with persons with dementia.
- An individual who provides direct care shall be considered a direct caregiver and must complete the required initial training and an additional 3 hours of training within 9 months after beginning employment. This training shall include, but is not limited to, managing problem behaviors, promoting the resident's independence in activities of daily living, and skills in working with families and caregivers.

Section 400.4178, F.S., set forth the Alzheimer's training requirements for assisted living facilities and specifies that a facility which advertises that it provides special care for persons with Alzheimer's disease or other related disorders must meet the following standards of operation:

- If the facility has 17 or more residents, have an awake staff member on duty at all hours of the day and night; or
- If the facility has fewer than 17 residents, have an awake staff member on duty at all hours of the day and night or have mechanisms in place to monitor and ensure the safety of the facility's residents;
- Offer activities specifically designed for persons who are cognitively impaired; and
- Have a physical environment that provides for the safety and welfare of the facility's residents

Furthermore, this section specifies that assisted living facilities employ staff that has completed the training and continuing education, which require:

- An individual who is employed by a facility that provides special care for residents with Alzheimer's disease or other related disorders, and who has regular contact with such residents, must complete up to 4 hours of initial dementia-specific training developed or approved by the department. The training shall be completed within 3 months after

beginning employment and shall satisfy the core training requirements of s. 400.452(2)(g); and

- A direct caregiver, who is employed by a facility that provides special care for residents with Alzheimer's disease or other related disorders, and who provides direct care to such residents, must complete the required initial training and 4 additional hours of training developed or approved by the department. The training shall be completed within 9 months after beginning employment and shall satisfy the core training requirements of s. 400.452(2)(g).

Section 400.4178, F.S., specifies that an individual who is employed by a facility that provides special care for residents with Alzheimer's disease or other related disorders, but who only has incidental contact with such residents, must be given, at a minimum, general information on interacting with individuals with Alzheimer's disease or other related disorders, within 3 months after beginning employment.

In addition to nursing homes and assisted living facilities, there are other licensed health facilities that provide care for individual with Alzheimer's Disease: home health agencies; nurse registries; adult day care centers; adult family care homes; and hospices. Currently, there are no provisions in law, as it relates to licensure requirements, for these five types of health care facilities, to provide special training of staff caring for residents diagnosed with Alzheimer's disease. The provision for licensure of these facilities are set forth as:

- s. 400.461, F.S., for home health agencies.
- s. 400.55, F.S., for adult day care centers (ADCCs).
- s. 400.6005, F.S., for hospices.
- s. 400.616, F.S., for adult family-care centers (AFCHs).

The 2000 Florida Legislature revised the home health agency statutes to permit home health aides to pass a competency test in lieu of training for licensing purposes. Efforts have been made to decrease state requirements for licensure because of the serious shortage of home health aides in Florida. Unlike the other facility types in this bill, home health agency and nurse registry employees and contractors generally provide services of short duration to patients. Staff of these agencies provides care in the homes of the patient, one or more times a week/month, for approximately an hour or two before they leave. They are typically not the caregivers of the patients. According to AHCA, after a review of the home health agency and nurse registry complaints received over the past two years, it was determined that there were no complaints specific to patients with Alzheimer's disease and related disorders.

As set forth in s. 400.497, F.S., AHCA administers and develops rules for the home health agency and nurse registry programs. The Department of Elder Affairs (DOEA) has lead rule authority for AFCHs, ADCCs, and hospices as set forth in ss. 400.55, 400.6005, and 400.616, F.S., respectively.

There are approximately 1,080 home health agencies in Florida, which provide services to elderly persons. It is estimated that there are 80 nurse registries.

The Florida Department of Labor estimated that there were 28,989 home health aides in 1996 and projected that there would be 52,171 aides in 2006. It is indeterminate at the time of this analysis the actual number of nurses, therapists and other allied health professionals that are currently employed by home health agencies, nurse registries, adult day care centers, and adult family-care centers.

Currently, home health agencies, adult day care centers, adult family care homes, and hospices do not require employee training in Alzheimer's disease or related disorders. Assisted living and nursing home facilities are required to provide Alzheimer's disease or related disorders training to employees that have direct contact or provide care for persons with Alzheimer's disease or related disorders. The required Alzheimer's disease or related disorders training was implemented approximately five years ago for assisted living facilities, and was implemented February 4, 2002, for nursing homes.

Section 400.4178(8) and newly created subsection (5) of section 400.1755, F.S., provide DOEA rulemaking authority to establish standards for Alzheimer's disease or related disorders training providers and training curriculum. DOEA is also responsible for reviewing and approving assisted living and nursing home facility training providers and training curriculum. The training curricula are reviewed and approved every three years. DOEA maintains a current list of DOEA approved assisted living and nursing home facility training providers and curricula.

Currently, there are more than 100 assisted living facility Alzheimer's disease or related disorders training providers approved by DOEA. Unlike the other health care facilities licensed under Chapter 400, F.S., DOEA trainers do provide the required Alzheimer's disease or related disorder training to assisted living facilities staff.

On February 4, 2002, DOEA implemented a contract with the University of South Florida, Florida Policy Exchange Center on Aging to review and approve the nursing home Alzheimer's disease or related disorders training providers and training curricula applications. DOEA anticipates that at least 680 nursing home Alzheimer's disease or related disorders training provider applications will be submitted for DOEA approval. Until the program has been fully implemented, DOEA cannot estimate the number of nursing home Alzheimer's disease or related disorders curriculum applications that will be submitted for approval.

#### C. EFFECT OF PROPOSED CHANGES:

As a condition of licensure, home health agencies, adult day care centers, hospices, and adult family-care centers providing care for patients with Alzheimer's disease or related disorders will provide or arrange for all direct care employees:

- 1 hour of training within the first 3 months of employment; and
- 3 hours of additional training within 9 months of employment;

from approved providers.

Provisions allow that licensees under chapter 456.001, F.S. may substitute required continuing education requirements for the training requirements specified in the act. In addition, training approved by the specified licensing board is automatically approved by the Department of Elder Affairs to meet the requirements of this act.

Once the employee receives a certificate of completion for the required training from approved provider, the employee is not required to repeat the training in that topic if the employee or direct caregiver changes employment to a different home health agency, assisted living facility, nursing home, adult day care center, hospice, or an adult family-care center.

The Department of Elderly Affairs will approve the initial and continuing education courses and providers or contract with another entity to do so. In addition, DOEA is given rule authority establishing standards for trainers and the required training.

D. SECTION-BY-SECTION ANALYSIS:

**Section 1.** Provides for short title: "Florida Alzheimer's Training Act."

**Section 2.** Effective July 1, 2004, creates s. 400.4786, F.S., to provide additional conditions of licensure for home health agencies. Requires that basic written information about interacting with persons with Alzheimer's disease or a related disorder be given to all employees. Employees who have direct contact with clients with Alzheimer's disease must have one hour of training within the first three months after employment and three hours of training within nine months of employment. Provides for specifications of training. A certificate is to be issued as evidence of completion of training.

Specifies that the required 4 hours of training for certified nursing assistants are part of the total hours of training required by this act.

Health care practitioners as defined in s. 456.001, continuing educational hours taken as required by that practitioners licensing board shall be counted toward the total of 4 hours training requirements set forth in the act.

DOEA must approve the one-hour and three-hour training provided and keep a current list of the approved providers. DOEA must also develop rules to establish standards for trainers and training curriculum. Specifies that any training approved by health care practitioner licensing board is approved by Department of Elderly Affairs to meet the requirements set forth in this act.

Employees or direct caregivers are not required to repeat training in that topic if they change employment to a different home health agency, assisted living facility, nursing home, adult day care center, adult family-care home, or hospice.

**Section 3.** Effective July 1, 2003, creates s. 400.55715, F.S., to provide conditions of licensure as an adult day care center. Employees of said centers must provide to each of their employees, upon beginning employment, basic written information about interacting with persons with Alzheimer's disease or related disorders. The amended requirements for licensure are the same as set forth in section 2.

**Section 4.** Effective July 1, 2004, creates s. 400.626, F.S., to provide licensure requirements for adult family-care homes. The amended requirements for licensure are the same as set forth in section 2.

**Section 5.** Effective July 1, 2003, amends s. 400.6045, F.S., to provide licensure requirements for hospices. The amended requirements for licensure are the same as set forth in section 2.

**Section 6.** Provides that an employee hired on or after July 1, 2002, need not comply with the guidelines created in this act before July 1, 2003, or July 1, 2004, as provided.

**Section 7.** Provides that the Department of Elderly Affairs or its designee must approve the initial training and continuing training provided pursuant to this act. Keep a list of approved providers and trainers. Provides for rule making authority for DOEA to establish standards. The training or training curriculum approved by the department shall be approved to meet Alzheimer's training requirement mandates for providers licensed under chapter 400, F.S. However, trainers seeking approval for from DOEA must also submit a separate approval for the qualifications and a separate training curriculum for the provisions of s. 400.4178, F.S.

**Section 8.** The Legislature finds that Alzheimer's disease and related disorders pose an urgent health need in this state. Therefore, each state university, college, or postsecondary school that

prepares undergraduate or graduate students for health professions as described in chapter 456, F.S., is encouraged to include in its curriculum basic training about Alzheimer's disease and related disorders.

**Section 9.** Provides for an effective date July 1, 2002.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Indeterminate.

2. Expenditures:

DOEA is required to develop standards for the training, through rules, approve trainers and maintain lists of approved trainers. The department expressed its support of Alzheimer's disease awareness and training, but indicated that it "cannot implement the changes required by the bill without a substantial legislative appropriation." See Fiscal Comments section for additional information.

According to AHCA, AHCA facility surveyors will have the additional responsibility of ensuring that employees receive the required training. As part of the inspection, surveyors currently review the training of employees, this will be an additional requirement and the cost is not discernible.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

There will be cost to all the facilities in providing the required training of personnel. It is assumed that there will be a fee for each employee who is trained. The fee structure for the training of the employees will be determined by the providers. If the facilities choose to provide the required training, there will be a fiscal impact as it relates to getting their program approved by the state (DOEA). Additional cost to facilities is anticipated in the actual hours spent by each employee in training. They will also have to issue certificates for the training that they provide and maintain records of the training. Some agencies may require employees to pay their own fees, which would be a hardship on the lower paid home health aides and homemakers.

D. FISCAL COMMENTS:

The Associated Home Health Industries of Florida has estimated that it will cost home health agencies \$2.7 million per year for the required training. This does not include the costs associated with creating, printing, and distributing the written materials. According to AHCA, there may be

resistance from home health agency and nurse registry associations regarding training requirements.

The DOEA provided the following information and chart. With current statutory requirements, the estimated number of applications for training provider certification is expected to be at least 690. Nursing homes have reported that they intend to have their Directors of Nursing become certified DOEA training providers. The estimated number of applications to obtain training curriculum certification, while indeterminate, should be significantly less than the training provider applications.

The bill expands the Alzheimer's Disease or Related Disorder Training Approval Program to include:

- 1,080 Licensed Home Health Agencies
- 40 Licensed Hospice Facilities
- 396 Adult Family Care Homes
- 179 Adult Day Care Centers

The following table displays the phase-in of facilities and related expected recurring expenses. Not included are an unknown, yet significant, number in the Nurse Registry agencies.

	<b>FY 2001-2002 General Revenue</b>	<b>FY 2002-2003 General Revenue</b>	<b>FY 2003-2004 General Revenue</b>
Facility Type	690 Nursing Homes	690 Nursing Homes 179 Adult Day Care Centers 40 Licensed Hospice	690 Nursing Homes 179 Adult Day Care Centers 40 Licensed Hospice 1,080 Licensed Home Health Agencies
Contract for development and implementation Training Approval Program	\$66,398	\$86,510	\$190,437
1.0 FTE Pay Grade 024 (with benefits) to administer program, educate the public, rule promulgation, program evaluation, and monitoring training providers	\$0	\$60,030	\$60,030
OPS	\$25,000	\$25,000	\$25,000
Expenses (travel, public notification - Florida Administrative Weekly, program, office supplies, document reproduction, purchase outside consultants for USF and Teaching Nursing Home Curriculum)	\$4,402	\$6,566	\$7,566
Postage for mailings to facilities	\$4,200	\$963	\$4,752
Recurring Allocation	\$100,000	\$100,000	\$100,000
<b>HB 1207</b>		<b>\$ 79,069</b>	<b>\$ 187,785</b>
Total Program	\$100,000	\$179,069	\$287,785

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill does not require a city or county to expend funds or to take any action requiring the expenditure of any funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill does not reduce the revenue raising authority of any city or county.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

The bill does not reduce the amount of state tax shared with a county or city.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

The Department of Elderly Affairs (DOEA) must adopt rules to establish standards for trainers and training of employees of home health agencies, nurse registries, adult day care centers and adult family-care centers. The Agency for Health Care Administration traditionally has rule authority for home health agencies and nurse registries.

C. OTHER COMMENTS:

According to AHCA, the bill should improve employee knowledge of Alzheimer's disease and related disorders, thus enhancing the care to residents and patients served by the facilities in the bill.

The DOEA would have to absorb any cost associated with this bill since there is not an appropriation.

The bill gives DOEA the authority to develop rules on Alzheimer's training for home health agencies. This is in conflict with the current statute, s. 400.497, F.S., which gives AHCA the authority to develop rules on the training of home health aides and all rule authority pertaining to the licensure and operation of home health agencies. AHCA recommends that rule authority remain at AHCA.

On February 12, 2002, the Committee on Health Regulation reported HB 1207 out favorably. During committee testimony, a representative from AHCA suggested that the provisions within the bill providing for additional training requirements for home health agencies and nurse registries be excluded through the amendatory process because the employees of both entities are only administrative/office personnel who never have direct contact with the patient. Both Nurse Registries and home health agencies contract with independent licensed providers, who are not considered employees of the business. Educational requirements for these types of providers are more suitably placed on their licensure requirements. However, the suggested amendment was not offered.

The bill allows that an employee or direct caregiver that changes employment to a different home health agency, assisted living facility, nursing home, adult day care center, adult family care center, or hospice; that additional retraining of the employee is not required. However, the training curriculum for assisted living facilities is more stringent than in the other health agencies licensed under chapter 400, F.S. Specifically, 8 hours of training is required within the first year of employment at an assisted living facility and only 4 hours of training is required in the other facilities. The following amendment is recommended to clarify the fact that the less stringent educational requirements for nursing homes, home health agencies, adult day care centers, adult family care centers and hospices may not be substituted when an employee moves from one facility to another:

“On page 10, between lines 10 & 11, insert:

Employees meeting the educational requirements of facilities licensed pursuant to ss. 400.001; 400.461, 400.55, 400.6005, and 400.616, F.S., may apply certified educational training toward the completion of additional educational requires set forth in s. 400.4178, F.S.”

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On February 19, 2002, the Committee on Health and Human Services Appropriations adopted an amendment that requires the Department of Elderly Affairs to approve the initial and continuing training in the facilities/agencies named in the bill, to keep a list of current providers approved to provide the training and to adopt rules to establish training standards. The amendment removes the provision allowing the department to accept grants, donations and gifts to offset the costs associated with providing the review and approval of the required training, and thus, creates the potential of a General Revenue request.

On February 26, 2002, the Council for Healthy Communities adopted two amendments to the bill and reported the bill favorably as a council substitute.

The council substitute differs from the original bill in that it removes the training requirements for nurse registries; and specifies that the training programs approved by Department of Elderly Affairs pursuant to this section shall be approved to meet the training requirements mandated for all licensed providers in this act. Specifies that trainers seeking approval for from DOEA must also submit a separate approval for the qualifications and a separate training curriculum for the provisions of s. 400.4178, F.S.

VII. SIGNATURES:

COMMITTEE ON HEALTH REGULATION:

Prepared by:

Lisa Rawlins Maurer, Legislative Analyst

Staff Director:

Lucretia Shaw Collins

AS REVISED BY THE COMMITTEE ON HEALTH & HUMAN SERVICES APPROPRIATIONS:

Prepared by:

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AS FURTHER REVISED BY THE COUNCIL FOR HEALTHY COMMUNITIES:

Prepared by:

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David De La Paz