

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 1760

SPONSOR: Health, Aging and Long-Term Care Committee and Senator Sullivan

SUBJECT: Assisted Living Facilities

DATE: February 28, 2002 REVISED: 03/11/02 _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Harkey</u>	<u>Wilson</u>	<u>HC</u>	<u>Favorable/CS</u>
2.	<u>Barnes</u>	<u>Whiddon</u>	<u>CF</u>	<u>Fav/ 2 Amendments</u>
3.	_____	_____	<u>AHS</u>	_____
4.	_____	_____	<u>AP</u>	_____
5.	_____	_____	<u>RC</u>	_____
6.	_____	_____	_____	_____

I. Summary:

CS/SB 1760 requires each district administrator of the Department of Children and Family Services (department) to implement a plan to demonstrate how the district will ensure the provision of state-funded mental health and substance abuse treatment services to residents of assisted living facilities (ALFs) that hold a limited mental health license. Each district administrator must hold a public meeting to receive input from ALFs that hold a limited mental health license, and the department’s state headquarters must hold an annual meeting to review the district plans and must invite representatives of specified groups.

The bill authorizes the department to use case rates or per capita contracts for the provision of local substance abuse and mental health services. Within existing statewide or district resources, the department must require that contract funds support individual client treatment; develop proposed eligibility criteria and associated benefits as a part of the 2004 state master plan; promote the use of electronic formats for contract materials; promote the use of web-enabled application software for data collection and billing; and ensure consumer choice among providers.

This bill amends sections 394.4574, and 394.74, of the Florida Statutes.

II. Present Situation:

Assisted Living

In general, the term “assisted living” is used for facilities that are not licensed as nursing homes, but that provide housing, assistance with activities of daily living, and some nursing care for people who are too frail to live alone, but who are too healthy to need 24-hour nursing care.

Assisted living facilities (ALFs) attempt to provide the needed services and supervision in a manner that is as home-like as possible.

There are no federal standards for assisted living, so regulation of assisted living facilities is a state responsibility. In Florida, assisted living facilities are regulated in part III of ch. 400, F.S. All facilities must be licensed, and additional licensure beyond core requirements is available, allowing facilities to provide additional services. An assisted living facility that serves three or more mental health residents must obtain a limited mental health license in accordance with s. 400.4075, F.S. To obtain a limited mental health license, a facility must hold a standard license as an ALF, must not have any current uncorrected deficiencies or violations, and must ensure that within 6 months after receiving a limited mental health license, the facility director and the staff of the facility who are in direct contact with mental health residents must complete training of no less than 6 hours related to their duties. The department will provide the training.

Section 394.4574, F.S., establishes the department's responsibilities for a mental health resident who resides in an ALF with a limited mental health license. The department must ensure that:

- A mental health resident has been assessed by a psychiatrist, clinical psychologist, clinical social worker or psychiatric nurse, or an individual supervised by one of those professionals, and determined to be appropriate to reside in an ALF.
- A cooperative agreement, as required under s. 400.4075, F.S., has been developed between the mental health care services provider and the administrator of the ALF.
- The community living support plan, under s. 400.402, F.S., has been prepared by a mental health resident and a mental health case manager for that resident in consultation with the administrator of the ALF or the administrator's designee.
- The ALF is provided with documentation that the resident meets the definition of a mental health resident.
- The mental health services provider assigns a case manager to each mental health resident who lives in an ALF with a limited mental health license.

The Secretary of the department, in consultation with the Agency for Health Care Administration, must require each district administrator to develop, with community input, a plan to demonstrate how the district will ensure the provision of state-funded mental health and substance abuse treatment services to residents of ALFs that hold a limited mental health license.

Mental Health and Substance Abuse Contracts

Part IV of ch. 394, F.S., is known as "The Community Alcohol, Drug Abuse, and Mental Health Services Act" and includes provisions for planning, defining, operating, financing, contracting, and managing the district alcohol, drug abuse, and mental health (ADM) services delivery system.

Section 394.74, F.S., authorizes the department to contract for the establishment and operation of local mental health and substance abuse services with hospitals, clinics, laboratories, institutions or other appropriate service providers. Section 394.74(2)(b), F.S., states that the department may use unit cost methods of payment in contracts for purchasing mental health and substance abuse services. The unit cost contracting system must account for patient fees that are paid on behalf of

a specific client and those that are earned and used by the provider for those services funded in whole or in part by the department.

Section 2 of ch. 99-396, L.O.F., amended s. 394.74, F.S., to allow the department to use unit cost methods of payment in contracts for purchasing mental health and substance abuse services. Section 216.023(4)(j), F.S., requires that an agency legislative budget request must, for each program, contain unit costs for major activities for the budget entities as defined in the General Appropriations Act. This paragraph further states that it is the intent of the Legislature to use unit-cost data not only as a budgeting tool, but also as a policymaking tool and an accountability tool.

In a January 2001 Commentary Report on PB² (Report 01-05), the Office of Program Policy Analysis and Government Accountability (OPPAGA) stated that the unit cost initiative in a performance-based policy framework can enable the Legislature to assess the efficiency of public programs. OPPAGA stated in that report that the unit cost system is under development, and is expected to improve with the implementation of the new state accounting system.

Section 20.19(9), F.S., exempts mental health and substance abuse contracts from being competitively procured by stating that the department is not required to procure health services (examination, diagnosis, or treatment) through the competitive bid process contained in ch. 287, F.S. However, s. 402.73, F.S., specifies that if a new program or service is authorized and funded and the annual contract value is \$300,000 or more, the department must competitively procure a contract for client services. Other circumstances under s. 402.73, F.S., in which the department must competitively procure services include:

- if, after a reasonable opportunity, a contract provider fails to meet cost and performance standards established by the department, or
- the department has concluded, after reviewing market prices and available treatment options, that there is evidence that the department can improve the performance outcomes produced by its contract resources.

Currently, there are generally three types of contracts used by the department to contract for mental health or substance abuse services: rate agreements, which specify the services to be delivered at an agreed upon cost for a referred individual or individuals; a purchase-of-service contract that purchases specific goods or services for a particular individual (frequently used for services for children); and a performance contract which indicates the number of units of various services to be delivered to established priority populations with specified outcomes.

Per-capita rate contracts and case rate contracts are two payment methods under performance contracting. Per-capita rate contracts refer to fixed rates of payment for a specified group of services to a defined population eligible to receive the services. Not all of the eligible persons may actually access those services. A case rate contract is used when a provider is paid a fixed fee per patient, per treatment episode and is based on a common factor such as a particular diagnosis or type of treatment.

The Mental Health and Substance Abuse Program Offices of the department have adopted and published a set of contract and financial rules in the Florida Administrative Code, ch. 65-E14, that provide the operational framework for contracting, budgeting, and methods of payment to mental health and substance abuse providers.

III. Effect of Proposed Changes:

CS/SB 1760 amends s. 394.4574, F.S., to require each district administrator to implement a plan to demonstrate how the district will ensure the provision of state-funded mental health and substance abuse treatment services to residents of ALFs that hold a limited mental health license. Each district administrator must hold a public meeting to receive input from ALFs that hold a limited mental health license. The state headquarters of the department must hold an annual meeting to review the district plans and must invite the Florida Assisted Living Association, the Florida Council for Behavioral Healthcare, the Florida Psychiatric Society, and the Alliance for the Mentally Ill.

The bill amends s. 394.74, F.S., to authorize the department to use case rates or per capita contracts for the provision of local substance abuse and mental health services. Within existing statewide or district resources, the department must require that contract funds:

- support individual client treatment; develop proposed eligibility criteria and associated benefits as a part of the 2004 state master plan;
- promote the use of electronic formats for contract materials;
- promote the use of web-enabled application software for data collection and billing; and
- ensure consumer choice among providers as provider networks are created under s. 394.9082, F.S.

The bill does not specify, under the requirements for contract funds, that the providers chosen by the consumer would be in the same network as created under the behavioral health strategies specified in s. 394.9082, F.S.

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:

There would be minimal costs to the private community-based ALF providers to attend the publicly announced meeting in each district. Also, the associations invited to participate in the annual meeting with the state headquarters office would incur minimal expenses to attend the meeting.

C. Government Sector Impact:

The department does not anticipate any new costs associated with the implementation of this bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Except for two technical differences, this bill is identical to CS/SB 1686 passed by the Senate Committee on Children and Families on March 6, 2002.

VIII. Amendments:

#1 by Children and Families:

Adds the Florida Mental Health Counselor's Association to the groups that would meet with the state headquarters office of the Department of Children and Family Services to review the district plans for mental health and substance abuse services.

#2 by Children and Families:

Clarifies that all providers chosen by the consumer would be in the same network.