

# 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.)

Prepared By: Children and Families Committee

BILL: SB 388

INTRODUCER: Senator Argenziano

SUBJECT: Assisted Care Communities

DATE: December 12, 2005

REVISED: 01/10/06

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Goltry</u>	<u>Whiddon</u>	<u>CF</u>	<u>Fav/10 amendments</u>
2.	<u></u>	<u></u>	<u>HC</u>	<u></u>
3.	<u></u>	<u></u>	<u></u>	<u></u>
4.	<u></u>	<u></u>	<u></u>	<u></u>
5.	<u></u>	<u></u>	<u></u>	<u></u>
6.	<u></u>	<u></u>	<u></u>	<u></u>

## Please see last section for Summary of Amendments

Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

### I. Summary:

Senate Bill 388 transfers all sections of parts III, VII, and V of chapter 400, F.S., to newly created parts I, II, and III of chapter 429, F.S., entitled "Assisted Care Communities."

Additionally, the bill makes multiple statutory revisions that are needed to accurately reflect the move of part III of chapter 400, F.S. Finally, the Division of Statutory Revision is directed to prepare a reviser's bill to make conforming changes to the Florida Statutes.

This bill transfers and renumbers sections 400.401, 400.402, 400.404, 400.407, 400.4071, 400.4075, 400.408, 400.411, 400.412, 400.414, 400.415, 400.417, 400.4174, 400.4176, 400.4177, 400.4178, 400.418, 400.419, 400.4195, 400.42, 400.421, 400.422, 400.423, 400.424, 400.4255, 400.4256, 400.426, 400.427, 400.4275, 400.428, 400.429, 400.4293, 400.4294, 400.4295, 400.4296, 400.4297, 400.4298, 400.431, 400.434, 400.435, 400.441, 400.442, 400.444, 400.4445, 400.447, 400.449, 400.451, 400.452, 400.453, 400.454, 400.616, 400.617, 400.618, 400.619, 400.6194, 400.6196, 400.621, 400.6211, 400.622, 400.625, 400.6255, 400.628, 400.629, 400.55, 400.551, 400.552, 400.553, 400.554, 400.555, 400.556, 400.5565, 400.557, 400.5571, 400.5572, 400.5575, 400.558, 400.559, 400.56, 400.562, 400.563, and 400.564 of the Florida Statutes.

The bill amends sections 101.655, 189.428, 196.1975, 202.125, 205.1965, 212.031, 212.08, 296.02, 381.0035, 381.745, 393.063, 393.506, 394.455, 394.4574, 394.463, 400.0063, 400.0069,

400.0073, 400.0077, 400.0239, 400.119, 400.141, 400.142, 400.191, 400.215, 400.402, 400.404, 400.407, 400.4071, 400.408, 400.411, 400.412, 400.414, 400.415, 400.417, 400.4174, 400.4176, 400.4178, 400.418, 400.419, 400.42, 400.422, 400.424, 400.4255, 400.4256, 400.426, 400.427, 400.428, 400.429, 400.4293, 400.431, 400.441, 400.442, 400.444, 400.447, 400.452, 400.462, 400.464, 400.497, 400.55, 400.551, 400.552, 400.553, 400.554, 400.555, 400.556, 400.5565, 400.557, 400.5571, 400.5572, 400.5575, 400.558, 400.559, 400.56, 400.562, 400.563, 400.564, 400.601, 400.616, 400.617, 400.618, 400.619, 400.6194, 400.6196, 400.621, 400.6211, 400.622, 400.625, 400.6255, 400.628, 400.629, 400.93, 400.962, 400.980, 400.9905, 400.9935, 401.23, 402.164, 408.032, 408.033, 408.034, 408.831, 409.212, 409.905, 409.906, 409.907, 409.912, 410.031, 410.034, 413.20, 415.1111, 430.601, 430.703, 435.03, 435.04, 440.13, 465.0235, 468.1685, 468.505, 477.025, 509.032, 509.241, 627.732, 651.011, 651.022, 651.023, 651.055, 651.095, 651.118, 765.1103, 765.205, 768.735, 893.13, 943.0585, and 943.059 of the Florida Statutes, to make conforming changes.

## II. Present Situation:

### Regulation of Health Care Facilities and Services

Chapter 408, F.S., “Health Care Administration” contains the general statutory provisions assigned to the Agency for Health Care Administration (AHCA or agency). The Agency as created in s. 20.42, F.S., is responsible for:

- Health facility licensure, inspection, and regulatory enforcement;
- Investigation of consumer complaints related to health care facilities and managed care plans;
- Implementation of the certificate-of-need program;
- Operation of the State Center for Health Statistics;
- Administration of the Medicaid program;
- Administration of the contracts with the Florida Healthy Kids Corporation;
- Certification of health maintenance organizations and prepaid health clinics as set forth in part III of chapter 641, F.S.; and
- Any other duties prescribed by statute or agreement.

The statutory provisions for the health care facilities and services requiring licensure by, or registration with, AHCA, are found in chapters 112, 383, 390, 394, 395, 400, 440, 483, and 765, F.S. The facilities and services include drug free workplace laboratories, birth centers, abortion clinics, crisis stabilization units, short term residential treatment units, residential treatment facilities, residential treatment centers for children and adolescents, hospitals, ambulatory surgical centers, mobile surgical facilities, private review agents, health care risk managers, nursing homes, assisted living facilities, home health agencies, nurse registries, companion services or homemaker services providers, adult day care centers, hospices, adult family-care homes, homes for special services, transitional living facilities, prescribed pediatric extended care centers, home medical equipment providers, intermediate care facilities for the developmentally disabled, health care services pools, health care clinics, clinical laboratories, multiphasic health testing centers, and organ and tissue procurement agencies.

These regulated health care facilities and services provide care in settings ranging from individuals homes to institutions such as hospitals and nursing homes. The complexity of care

provided ranges from companion and homemaker services in the home to trauma care and intensive care in hospitals. The duration of service ranges from short-term to long-term.

The Department of Elderly Affairs currently has rule-writing authority for the assisted living facility, adult family-care home, adult day care center, and hospice programs. The Agency for Health Care Administration has rule-writing authority for the majority of other programs it licenses including hospitals, nursing homes, home health agencies, and others.

**Nursing Homes and Related Health Care Facilities**

Chapter 400, F.S., is entitled “Nursing Homes and Related Health Care Facilities” and consists of 13 parts.

<b>Part</b>	<b>Title</b>
I	Long-Term Care Facilities: Ombudsman Program
II	Nursing Homes
III	Assisted Living Facilities
IV	Home Health Agencies
V	Adult Day Care Centers
VI	Hospices
VII	Adult Family-Care Home Act
VIII	Intermediate, Special Services, and Transitional Living Facilities
IX	Prescribed Pediatric Extended Care Centers
X	Home Medical Equipment Providers
XI	Intermediate Care Facilities for Developmentally Disabled Persons
XII	Health Care Services Pools
XIII	Health Care Clinic Act

**Assisted Living Facilities**

Assisted living facilities (ALFs) are residential care facilities that provide housing, meals, personal care, supervision, supportive services and assistance with or administration of medications to older persons and disabled adults who are unable to live independently. These facilities are licensed under chapter 400, part III, F.S., and are intended to be a less costly alternative to more restrictive, institutional settings for individuals who do not require 24-hour nursing supervision. They are regulated in a manner to encourage dignity, individuality, and choice for residents, while providing reasonable assurance of their safety and welfare.

In addition to a standard ALF license, there are three “specialty” ALF licenses: extended congregate care (ECC), limited nursing services (LNS), and limited mental health (LMH). An ALF holding an ECC license may provide additional nursing services and total assistance with personal care services. Residents living in ECC-licensed facilities may have higher impairment levels than those living in a standard ALF. Residents living in an ALF holding a LNS or LMH license must meet the same residency criteria as a standard-licensed ALF.

Regardless of the facility's license status, residents living in ALFs cannot have conditions that require 24-hour nursing supervision. The only exception is for an existing resident who is receiving licensed hospice services while residing in the ALF.

### **Adult Family-Care Homes**

An adult family-care home (AFCH) is a family-type living arrangement in a private home for individuals who need housing and supportive services but who do not need 24-hour nursing supervision. These homes are licensed in accordance with chapter 400, part VII, F.S., to provide room, board, and personal care on a 24-hour basis for up to five individuals, and are intended to be an alternative to more restrictive, institutional settings. The provider must own or rent and live in the home.

### **Adult Day Care Centers**

Adult Day Care Centers (ADCC) are licensed under chapter 400, part V, F.S., to provide therapeutic programs of social and health services as well as activities for adults in a non-institutional setting. Participants may utilize a variety of services offered during any part of a day but less than a 24-hour period.

### **Division of Statutory Revision**

The Division of Statutory Revision (Division) is a unit within the Office of Legislative Services (OLS), which is responsible for editing, compiling, indexing, and publishing the Florida Statutes under the continuous permanent statutory revision plan established under ss. 11.241-11.243, F.S. The powers, duties, and functions of OLS as they pertain to the statutory revision program are specified by these sections of statute.

The provisions of s.11.242(1), F.S., charge the Division with conducting a systematic and continuing study of the statutes and laws of this state for the purpose of reducing their number and bulk, removing inconsistencies, redundancies, and unnecessary repetitions and otherwise improving their clarity and facilitating their correct and proper interpretation; and for the same purpose, to prepare and submit to the Legislature reviser's bills and bills for the amendment, consolidation, revision, repeal, or other alterations or changes in any general statute or laws or parts thereof of a general nature required as a result of legislation approved during the preceding session or sessions.

### **III. Effect of Proposed Changes:**

Senate Bill 388 transfers all sections of parts III, VII, and V of chapter 400, F.S., to chapter 429, F.S. This bill entitles the chapter "Assisted Care Communities" and makes multiple statutory revisions that are needed to accurately reflect the move of part III, of chapter 400, F.S., to chapter 429, F.S. Chapter 429, F.S., is organized into parts I, II, and III, as follows:

Chapter 400, F.S., part	Title	Transferred to chapter 429, F.S., part
III	Assisted Living Facilities	I
VII	Adult Family-Care Home Act	II
V	Adult Day Care Centers	III

**Section 1** creates chapter 429, F.S., entitled “Assisted Care Communities.”

**Section 2** renumbers ss. 400.401 – 400.454, F.S., as ss. 429.01-429.54, F.S., creating part I of chapter 429, F.S., “Assisted Living Facilities.”

**Section 3** renumbers ss. 400.616 – 400.629, F.S., as ss. 429.60 – 429.85, F.S., to create part II of chapter 429, F.S., “Adult Family Care Homes.”

**Section 4** renumbers ss. 400.55 – 400.564, F.S., as ss. 429.90 - 429.933, F.S., to create part III of chapter 429, F.S., “Adult Day Care Centers.”

**Sections 5 – 113** specify the conforming changes needed to reflect the move of part III, chapter 400, F.S., to newly created chapter 429, F.S.

**Section 114** directs the Division of Statutory Revision to prepare a reviser’s bill to introduce at the subsequent legislative session to make conforming changes to the Florida Statutes.

The requirements specified in the sections of part III of chapter 400, F.S., are interconnected with other sections contained in that chapter. The provisions of this legislation make the conforming changes that are needed to accurately reflect the move of chapter 400, part III, F.S., to chapter 429, part I, F.S.

**Section 115** provides an effective date of July 1, 2006.

**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:**

None.

**C. Government Sector Impact:**

The Agency for Health Care Administration reports that there should be no fiscal impact from implementing the provisions of this bill.

**VI. Technical Deficiencies:**

There is a typographical error on page 2, line 15 which refers to creating chapter 439, F.S. The remainder of the bill refers to chapter 429, F.S.

On page 3, line 9 a reference to section 429.87, F.S. needs to be added to reflect the appropriate number of sections of chapter 400, F.S., that are transferred to chapter 429, F.S.

**VII. Related Issues:**

None.

## VIII. Summary of Amendments:

**Barcode #11316 by Children and Families**

Corrects a typographical error

**Barcode # 915514 by Children and Families**

Inserts a reference to a section created by the bill.

**Barcode #682972 by Children and Families**

Corrects a cross reference to Parts I and III of chapter 429.

**Barcode # 423626 by Children and Families**

Corrects a cross reference to chapter 429.

**Barcode # 052534 by Children and Families**

Corrects a cross reference to part I and part III of chapter 429.

**Barcode # 834534 by Children and Families**

Deletes an incorrect cross reference to part I of chapter 429.

**Barcode # 570724 by Children and Families**

Deletes an incorrect cross reference to chapter 429.

WITH DIRECTORY CLAUSE AMENDMENT

**Barcode # 044226 Children and Families**

Deletes a section of the bill that incorrectly cross references chapter 429.

WITH TITLE AMENDMENT

**Barcode # 874786 Children and Families**

Deletes a section of the bill that incorrectly cross references chapter 429.

WITH TITLE AMENDMENT

**Barcode # 361290 by Children and Families**

Corrects a cross reference to part I of chapter 429.