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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/03/2015	.	
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	.	

The Committee on Health Policy (Flores) recommended the following:

Senate Amendment (with title amendment)

Delete lines 285 - 531

and insert:

Section 4. Subsection (2) and paragraph (c) of subsection (3) of section 419.001, Florida Statutes, are amended to read:

419.001 Site selection of community residential homes.—

(2) Homes with ~~of~~ six or fewer residents which otherwise meet the definition of a community residential home are ~~shall be~~ deemed a single-family unit and a noncommercial, residential use



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11 for the purpose of local laws and ordinances. Homes with ~~of~~ six
12 or fewer residents which otherwise meet the definition of a
13 community residential home must ~~shall~~ be allowed in single-
14 family or multifamily zoning without approval by the local
15 government, provided that such homes may ~~shall~~ not be located
16 within a radius of 1,000 feet of another existing such home with
17 six or fewer residents. Such homes with six or fewer residents
18 may not be located within a radius of 1,200 feet of a community
19 residential home. Such homes with six or fewer residents may
20 ~~shall~~ not be required to comply with the notification provisions
21 of this section; provided that, prior to licensure, the
22 sponsoring agency provides the local government with the most
23 recently published data compiled from the licensing entities
24 that identifies all community residential homes and all such
25 homes with six or fewer residents within the jurisdictional
26 limits of the local government in which the proposed site is to
27 be located in order to show that no other community residential
28 home is within a radius of 1,200 feet of the proposed home with
29 six or fewer residents and that no other such home with six or
30 fewer residents is within a radius of 1,000 feet of the proposed
31 home with six or fewer residents. At the time of home occupancy,
32 the sponsoring agency must notify the local government that the
33 home is licensed by the licensing entity.

34 (3)

35 (c) The local government may ~~shall~~ not deny the siting of a
36 community residential home unless the local government
37 establishes that the siting of the home at the site selected:

38 1. Does not otherwise conform to existing zoning
39 regulations applicable to other multifamily uses in the area.



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40 2. Does not meet applicable licensing criteria established
41 and determined by the licensing entity, including requirements
42 that the home be located to assure the safe care and supervision
43 of all clients in the home.

44 3. Would result in such a concentration of community
45 residential homes in the area in proximity to the site selected,
46 or would result in a combination of such homes with other
47 residences in the community, ~~such~~ that the nature and character
48 of the area would be substantially altered. A home that is
49 located within a radius of 1,200 feet of another existing
50 community residential home in a multifamily zone is deemed to
51 ~~shall~~ be an overconcentration of such homes that substantially
52 alters the nature and character of the area. A community
53 residential home may not be located within a radius of 1,200
54 feet of a home of six or fewer residents which otherwise meets
55 the definition of a community residential home. Distances must
56 be measured between all community residential homes that are
57 less than 1,200 feet apart if they serve residents who are
58 clients of one or more of the agencies and offices described in
59 paragraph (1) (a). A home that is located within a radius of 500
60 feet of an area of single-family zoning substantially alters the
61 nature and character of the area.

62 Section 5. Paragraphs (b) and (c) of subsection (3) of
63 section 429.07, Florida Statutes, are amended to read:

64 429.07 License required; fee.—

65 (3) In addition to the requirements of s. 408.806, each
66 license granted by the agency must state the type of care for
67 which the license is granted. Licenses shall be issued for one
68 or more of the following categories of care: standard, extended



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69 congregate care, limited nursing services, or limited mental
70 health.

71 (b) An extended congregate care license shall be issued to
72 each facility that has been licensed as an assisted living
73 facility for 2 or more years and that provides services
74 ~~facilities providing~~, directly or through contract, ~~services~~
75 beyond those authorized in paragraph (a), including services
76 performed by persons licensed under part I of chapter 464 and
77 supportive services, as defined by rule, to persons who would
78 otherwise be disqualified from continued residence in a facility
79 licensed under this part. An extended congregate care license
80 may be issued to a facility that has a provisional extended
81 congregate care license and meets the requirements for licensure
82 under subparagraph 2. The primary purpose of extended congregate
83 care services is to allow residents the option of remaining in a
84 familiar setting from which they would otherwise be disqualified
85 for continued residency as they become more impaired. A facility
86 licensed to provide extended congregate care services may also
87 admit an individual who exceeds the admission criteria for a
88 facility with a standard license if the individual is determined
89 appropriate for admission to the extended congregate care
90 facility.

91 1. In order for extended congregate care services to be
92 provided, the agency must first determine that all requirements
93 established in law and rule are met and must specifically
94 designate, on the facility's license, that such services may be
95 provided and whether the designation applies to all or part of
96 the facility. This ~~Such~~ designation may be made at the time of
97 initial licensure or licensure renewal ~~relicensure~~, or upon



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98 request in writing by a licensee under this part and part II of
99 chapter 408. The notification of approval or the denial of the
100 request must ~~shall~~ be made in accordance with part II of chapter
101 408. Each existing facility that qualifies ~~facilities qualifying~~
102 to provide extended congregate care services must have
103 maintained a standard license and may not have been subject to
104 administrative sanctions during the previous 2 years, or since
105 initial licensure if the facility has been licensed for less
106 than 2 years, for any of the following reasons:

- 107 a. A class I or class II violation;
- 108 b. Three or more repeat or recurring class III violations
109 of identical or similar resident care standards from which a
110 pattern of noncompliance is found by the agency;
- 111 c. Three or more class III violations that were not
112 corrected in accordance with the corrective action plan approved
113 by the agency;
- 114 d. Violation of resident care standards which results in
115 requiring the facility to employ the services of a consultant
116 pharmacist or consultant dietitian;
- 117 e. Denial, suspension, or revocation of a license for
118 another facility licensed under this part in which the applicant
119 for an extended congregate care license has at least 25 percent
120 ownership interest; or
- 121 f. Imposition of a moratorium pursuant to this part or part
122 II of chapter 408 or initiation of injunctive proceedings.

123
124 The agency may deny or revoke a facility's extended congregate
125 care license if it fails to meet the criteria for an extended
126 congregate care license as provided in this subparagraph.



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127 2. If an assisted living facility has been licensed for
128 less than 2 years, the initial extended congregate care license
129 must be provisional and may not exceed 6 months. Within the
130 first 3 months after the provisional license is issued, the
131 licensee shall notify the agency, in writing, when it admits at
132 least one extended congregate care resident, after which an
133 unannounced inspection shall be made to determine compliance
134 with requirements of an extended congregate care license.
135 Failure to admit an extended congregate care resident within the
136 first 3 months renders the extended congregate care license
137 void. A licensee that has a provisional extended congregate care
138 license which demonstrates compliance with all of the
139 requirements of an extended congregate care license during the
140 inspection shall be issued an extended congregate care license.
141 In addition to sanctions authorized under this part, if
142 violations are found during the inspection and the licensee
143 fails to demonstrate compliance with all assisted living
144 requirements during a followup inspection, the licensee shall
145 immediately suspend extended congregate care services, and the
146 provisional extended congregate care license expires. The agency
147 may extend the provisional license for not more than 1 month in
148 order to complete a followup visit.

149 3.2. A facility that is licensed to provide extended
150 congregate care services shall maintain a written progress
151 report on each person who receives services which describes the
152 type, amount, duration, scope, and outcome of services that are
153 rendered and the general status of the resident's health. A
154 registered nurse, or appropriate designee, representing the
155 agency shall visit the facility at least twice a year ~~quarterly~~



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156 to monitor residents who are receiving extended congregate care
157 services and to determine if the facility is in compliance with
158 this part, part II of chapter 408, and relevant rules. One of
159 the visits may be in conjunction with the regular survey. The
160 monitoring visits may be provided through contractual
161 arrangements with appropriate community agencies. A registered
162 nurse shall serve as part of the team that inspects the
163 facility. The agency may waive one of the required yearly
164 monitoring visits for a facility that has:

165 a. Held an extended congregate care license for at least 24
166 months; ~~been licensed for at least 24 months to provide extended~~
167 ~~congregate care services, if, during the inspection, the~~
168 ~~registered nurse determines that extended congregate care~~
169 ~~services are being provided appropriately, and if the facility~~
170 ~~has~~

171 b. No class I or class II violations and no uncorrected
172 class III violations; ~~and-~~

173 c. No ombudsman council complaints that resulted in a
174 citation for licensure ~~The agency must first consult with the~~
175 ~~long-term care ombudsman council for the area in which the~~
176 ~~facility is located to determine if any complaints have been~~
177 ~~made and substantiated about the quality of services or care.~~
178 ~~The agency may not waive one of the required yearly monitoring~~
179 ~~visits if complaints have been made and substantiated.~~

180 4.3. A facility that is licensed to provide extended
181 congregate care services must:

182 a. Demonstrate the capability to meet unanticipated
183 resident service needs.

184 b. Offer a physical environment that promotes a homelike



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185 setting, provides for resident privacy, promotes resident
186 independence, and allows sufficient congregate space as defined
187 by rule.

188 c. Have sufficient staff available, taking into account the
189 physical plant and firesafety features of the building, to
190 assist with the evacuation of residents in an emergency.

191 d. Adopt and follow policies and procedures that maximize
192 resident independence, dignity, choice, and decisionmaking to
193 permit residents to age in place, so that moves due to changes
194 in functional status are minimized or avoided.

195 e. Allow residents or, if applicable, a resident's
196 representative, designee, surrogate, guardian, or attorney in
197 fact to make a variety of personal choices, participate in
198 developing service plans, and share responsibility in
199 decisionmaking.

200 f. Implement the concept of managed risk.

201 g. Provide, directly or through contract, the services of a
202 person licensed under part I of chapter 464.

203 h. In addition to the training mandated in s. 429.52,
204 provide specialized training as defined by rule for facility
205 staff.

206 ~~5.4.~~ A facility that is licensed to provide extended
207 congregate care services is exempt from the criteria for
208 continued residency set forth in rules adopted under s. 429.41.
209 A licensed facility must adopt its own requirements within
210 guidelines for continued residency set forth by rule. However,
211 the facility may not serve residents who require 24-hour nursing
212 supervision. A licensed facility that provides extended
213 congregate care services must also provide each resident with a



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214 written copy of facility policies governing admission and
215 retention.

216 ~~5. The primary purpose of extended congregate care services~~
217 ~~is to allow residents, as they become more impaired, the option~~
218 ~~of remaining in a familiar setting from which they would~~
219 ~~otherwise be disqualified for continued residency. A facility~~
220 ~~licensed to provide extended congregate care services may also~~
221 ~~admit an individual who exceeds the admission criteria for a~~
222 ~~facility with a standard license, if the individual is~~
223 ~~determined appropriate for admission to the extended congregate~~
224 ~~care facility.~~

225 6. Before the admission of an individual to a facility
226 licensed to provide extended congregate care services, the
227 individual must undergo a medical examination as provided in s.
228 429.26(4) and the facility must develop a preliminary service
229 plan for the individual.

230 7. If ~~When~~ a facility can no longer provide or arrange for
231 services in accordance with the resident's service plan and
232 needs and the facility's policy, the facility must ~~shall~~ make
233 arrangements for relocating the person in accordance with s.
234 429.28(1)(k).

235 ~~8. Failure to provide extended congregate care services may~~
236 ~~result in denial of extended congregate care license renewal.~~

237 (c) A limited nursing services license shall be issued to a
238 facility that provides services beyond those authorized in
239 paragraph (a) and as specified in this paragraph.

240 1. In order for limited nursing services to be provided in
241 a facility licensed under this part, the agency must first
242 determine that all requirements established in law and rule are



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243 met and must specifically designate, on the facility's license,
244 that such services may be provided. This ~~Such~~ designation may be
245 made at the time of initial licensure or licensure renewal
246 ~~relicensure~~, or upon request in writing by a licensee under this
247 part and part II of chapter 408. Notification of approval or
248 denial of such request shall be made in accordance with part II
249 of chapter 408. An existing facility that qualifies ~~facilities~~
250 ~~qualifying~~ to provide limited nursing services must ~~shall~~ have
251 maintained a standard license and may not have been subject to
252 administrative sanctions that affect the health, safety, and
253 welfare of residents for the previous 2 years or since initial
254 licensure if the facility has been licensed for less than 2
255 years.

256 2. A facility ~~Facilities~~ that is ~~are~~ licensed to provide
257 limited nursing services shall maintain a written progress
258 report on each person who receives such nursing services. The
259 report must describe, ~~which report describes~~ the type, amount,
260 duration, scope, and outcome of services that are rendered and
261 the general status of the resident's health. A registered nurse
262 representing the agency shall visit the facility ~~such facilities~~
263 at least annually ~~twice a year~~ to monitor residents who are
264 receiving limited nursing services and to determine if the
265 facility is in compliance with applicable provisions of this
266 part, part II of chapter 408, and related rules. The monitoring
267 visits may be provided through contractual arrangements with
268 appropriate community agencies. A registered nurse shall also
269 serve as part of the team that inspects such facility. Visits
270 may be in conjunction with other agency inspections. The agency
271 may waive the required yearly monitoring visit for a facility



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272 that has:

273 a. Had a limited nursing services license for at least 24
274 months;

275 b. No class I or class II violations and no uncorrected
276 class III violations; and

277 c. No ombudsman council complaints that resulted in a
278 citation for licensure.

279 3. A person who receives limited nursing services under
280 this part must meet the admission criteria established by the
281 agency for assisted living facilities. When a resident no longer
282 meets the admission criteria for a facility licensed under this
283 part, arrangements for relocating the person shall be made in
284 accordance with s. 429.28(1)(k), unless the facility is licensed
285 to provide extended congregate care services.

286 Section 6. Subsection (2) of s. 393.501, Florida Statutes,
287 is reenacted for the purpose of incorporating the amendment made
288 by this act to s. 419.001, Florida Statutes, in references
289 thereto.

290 Section 7. Paragraph (a) of subsection (1) of s. 429.22,
291 and subsection (5) of s. 429.26, Florida Statutes, are reenacted
292 for the purpose of incorporating the amendment made by this act
293 to s. 429.07, Florida Statutes, in references thereto.

294 Section 8. Subsection (2) of s. 409.212, Florida Statutes,
295 is reenacted for the purpose of incorporating the amendment made
296 by this act to s. 429.075, Florida Statutes, in references
297 thereto.

298 Section 9. Section 429.075, Florida Statutes, is amended to
299 read:

300 429.075 Limited mental health license.—An assisted living



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301 facility that serves one ~~three~~ or more mental health residents
302 must obtain a limited mental health license.

303 (1) To obtain a limited mental health license, a facility
304 must hold a standard license as an assisted living facility,
305 must not have any current uncorrected ~~deficiencies or~~
306 violations, and must ensure that, within 6 months after
307 receiving a limited mental health license, the facility
308 administrator and the staff of the facility who are in direct
309 contact with mental health residents must complete training of
310 no less than 6 hours related to their duties. This ~~Such~~
311 designation may be made at the time of initial licensure or
312 licensure renewal ~~relicensure~~ or upon request in writing by a
313 licensee under this part and part II of chapter 408.
314 Notification of approval or denial of such request shall be made
315 in accordance with this part, part II of chapter 408, and
316 applicable rules. This training must ~~will~~ be provided by or
317 approved by the Department of Children and Families.

318 (2) A facility that is ~~Facilities~~ licensed to provide
319 services to mental health residents shall provide appropriate
320 supervision and staffing to provide for the health, safety, and
321 welfare of such residents. A facility located in an area zoned
322 for residential use in a municipality having a population
323 greater than 200,000 shall also do the following:

324 (a) Maintain on the premises of the facility 24-hour
325 security services provided by uniformed security personnel,
326 licensed under part III of chapter 493 or by a licensed security
327 officer as defined in s. 493.6101. The security officer must
328 wear a uniform that bears at least one patch or emblem that is
329 visible at all times and clearly displays his or her employing



330 agency and identity as a licensed security officer.
331 (b) Notify the municipality within 20 days after accepting
332 a resident who has been discharged from the criminal justice
333 system or who has a history of criminal arrest within the past 5
334 years.
335 (c) Maintain surveillance cameras on the premises
336 sufficient to ensure the safety of its residents and the
337 community at large.
338 (d) Maintain a log of residents who have been discharged
339 from the criminal justice system or who have a history of
340 criminal arrest within the past 5 years. The log must contain
341 the name of the transferring department and the previous address
342 for each such resident. The facility or home shall require
343 residents to sign the log each time they enter or exit the
344 premises. The facility shall send a copy of the log to the chief
345 administrative officer of the municipality in which the facility
346 is located on a quarterly basis and shall keep the log current,
347 maintain it in an accessible area on the premises, and allow its
348 inspection or copying within 45 days of a request by the
349 municipality.

351 ===== T I T L E A M E N D M E N T =====

352 And the title is amended as follows:

353 Delete lines 41 - 79

354 and insert:

355 resident right; amending s. 419.001, F.S.; prohibiting
356 the colocation of a home of six or fewer residents
357 which otherwise meets the definition of a community
358 residential home and a community residential home



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359 within a certain distance; requiring the measuring of
360 certain distances between community residential homes;
361 amending s. 429.07, F.S.; revising the requirement
362 that an extended congregate care license be issued to
363 certain facilities that have been licensed as assisted
364 living facilities under certain circumstances and
365 authorizing the issuance of such license if a
366 specified condition is met; providing the purpose of
367 an extended congregate care license; specifying that
368 the initial extended congregate care license of an
369 assisted living facility is provisional under certain
370 circumstances; requiring a licensee to notify the
371 Agency for Health Care Administration if it accepts a
372 resident who qualifies for extended congregate care
373 services; requiring the agency to inspect the facility
374 for compliance with the requirements of an extended
375 congregate care license; requiring the issuance of an
376 extended congregate care license under certain
377 circumstances; requiring the licensee to immediately
378 suspend extended congregate care services under
379 certain circumstances; requiring a registered nurse
380 representing the agency to visit the facility at least
381 twice a year, rather than quarterly, to monitor
382 residents who are receiving extended congregate care
383 services; authorizing the agency to waive one of the
384 required yearly monitoring visits under certain
385 circumstances; authorizing the agency to deny or
386 revoke a facility's extended congregate care license;
387 requiring a registered nurse representing the agency



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388 to visit the facility at least annually, rather than
389 twice a year, to monitor residents who are receiving
390 limited nursing services; providing that such
391 monitoring visits may be conducted in conjunction with
392 other inspections by the agency; authorizing the
393 agency to waive the required yearly monitoring visit
394 for a facility that is licensed to provide limited
395 nursing services under certain circumstances;
396 reenacting s. 393.501(2), F.S., to incorporate the
397 amendment made to s. 419.001, F.S., in references
398 thereto; reenacting ss. 429.22(1)(a) and 429.26(5),
399 F.S., to incorporate the amendment made to s. 429.07,
400 F.S., in references thereto; reenacting s. 409.212(2),
401 F.S., to incorporate the amendment made to s. 429.075,
402 F.S., in references thereto; amending s. 429.075,
403 F.S.; requiring that an assisted living facility that
404 serves one or more mental health residents, rather
405 than three or more such residents, obtain a limited
406 mental health license; requiring the adoption, use and
407 maintenance of certain security measures and practices
408 by assisted living facilities in municipalities having
409 a population greater than 200,000; amending s.