

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3627-11
Bill No.: HCS for SCS for SB 616
Subject: Health Department; Nursing and Boarding Homes; Elderly
Type: Original
Date: May 3, 2006

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
General Revenue*	(Unknown, greater than \$100,000)	(Unknown, greater than \$100,000)	(Unknown, greater than \$100,000)
Total Estimated Net Effect on General Revenue Fund*	(Unknown, greater than \$100,000)	(Unknown, greater than \$100,000)	(Unknown, greater than \$100,000)

*Oversight assumes unknown costs will exceed unknown fees.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 7 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Mental Health (DMH)** state this proposal relates to sections of the statute relating to the Department of Health's licensure of RCF's. DMH states that there are some residential facilities/programs solely licensed or certified by DMH and the references in this proposal do not change language in DMH licensing or certification standards. Therefore, the DMH assumes this proposal would not fiscally impact their agency.

Officials from the **Department of Social Services (DOS) - Division of Medical Services (DMS)** state there would be no fiscal impact. DMS states the changes in this proposal are to the definitions of residential care facilities and assisted living facilities for license purposes. DMS states these types of facilities are not eligible to receive Medicaid reimbursement.

Officials from the **Department of Health and Senior Services (DOH)** state this proposal changes residential care facility I to residential care facility and residential care facility II to assisted living facility.

DOH states this proposal will require DOH to approve the required training for the "appropriately trained and qualified individual" and approve a resident assessment tool for community-based services. This will require additional time and resources to accomplish these requirements.

ASSUMPTION (continued)

In addition, this proposal will require DOH to amend existing regulations based upon the requirements of the bill. DOH states this proposal broadens the types of individuals that can reside in what was an RCF II and what would be an assisted living facility. This would impact DOH by increasing the amount of time needed to inspect these facilities. DOH will also be reviewing screenings and assessments which will require additional time.

DOH states facilities licensed as residential care facility IIs on August 27, 2006 will be granted an assisted living facility license as long as they continue to meet all regulatory requirements in place at that time for an RCFII. At such time as their reimbursement rate for Medicaid patients equals or exceeds 45% of the average reimbursement rate for a SNF, the facility would then have to meet all the laws for licensure as an assisted living facility. New facilities would have to meet the requirements for an assisted living facility license.

DOH states, at this time, since the number of facilities to be licensed and inspected is unknown, DOH cannot accurately determine the impact of this proposal. However, DOH assumes it will be greater than \$100,000.

Section 198.073.3 indicates that "At such time that the average total reimbursement for the care of persons eligible for Medicaid in an assisted living facility is equal to or exceeds forty-five percent of the average total reimbursement rate for care of such persons in a skilled nursing facility, all facilities with a license as an assisted living facility shall meet all laws, rules, and regulations for licensure as an assisted living facility." DOH would only be able to provide costs associated with the delivery of state plan personal care services in a residential care facility. DOH would work collaboratively with the Department of Social Services and the Office of Administration - Information Technology Division to determine whether a particular facility equaled or exceeded the forty-five percent level.

DOH is not able to determine the fiscal impact because the extent or depth of the responsibilities required to complete the above function is unknown. DOH may need additional staff to fulfill the responsibilities.

REVENUE ESTIMATE

DOH assumes a licensing fee would be charged to the facilities. Since the number of facilities that would seek licensure is unknown, DOH cannot provide an accurate estimate of the revenue generated by these fees. However, DOH assumes the fees collected will not generate enough revenue to fully sustain the program and additional general revenue will be required.

ASSUMPTION (continued)

Current licensure fees for long-term care facilities do not cover the cost of the licensure program. This is assumed to be the case for assisted living facilities as well.

Officials from the **Department of Public Safety - Division of Fire Safety (DPS-FS)** assume the Department of Health will handle the inspections for these facilities; therefore DPS-FS assumes this proposal would not have a fiscal impact on their agency.

<u>FISCAL IMPACT - State Government</u>	FY 2007 (10 Mo.)	FY 2008	FY 2009
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GENERAL REVENUE

<u>Income - Department of Health and Senior Services</u>			
Fees	Unknown	Unknown	Unknown

<u>Cost - Department of Health and Senior Services</u>			
Program services	(Unknown, <u>greater than</u> \$100,000)	(Unknown, <u>greater than</u> \$100,000)	(Unknown, <u>greater than</u> \$100,000)

ESTIMATED NET EFFECT TO GENERAL REVENUE*	(Unknown, <u>greater than</u> \$100,000)	(Unknown, <u>greater than</u> \$100,000)	(Unknown, <u>greater than</u> \$100,000)
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*Oversight assumes unknown costs will exceed unknown fees.

<u>FISCAL IMPACT - Local Government</u>	FY 2007 (10 Mo.)	FY 2008	FY 2009
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

This proposal could have an impact on small businesses operating a residential care facilities due to additional requirements that must be met.

DESCRIPTION

This proposal repeals the terms "residential care facility I" and "residential care facility II" and replaces them with "residential care facility" and the newly created term "assisted living facility," respectively.

Assisted living facilities contain services consisting of social models based on the premise that the resident's unit is his or her home. There are new definitions for "activities of daily living" which include eating, dressing, bathing, toileting, transferring, and walking and for "instrumental activities of daily living" which consist of preparing meals, shopping for personal items, medication management, managing money, using the telephone, housework, and transportation ability. There are also new definitions for "appropriately trained individuals," "community based assessment" and "social model of care."

This proposal prescribes requirements for assisted living facilities in order to accept or retain individuals. An individual in a facility must not require hospitalization or skilled nursing. The facility must employ a staff large enough and skilled enough to handle twenty-four hour care. The facility must also have a written plan for the protection of all residents in the event of a disaster. The signatures of an authorized representative of the facility and the resident, legal representative, or other responsible party shall be contained in the individualized service plan. The facility must implement self-care and leisure activity programs.

The facility must complete pre move-in screening and resident assessments for community based services. This assessment will be completed by a trained individual using tools provided by the department and will be conducted upon admission, at least annually, and whenever a significant change has occurred in the resident's condition. This assessment will be used by the facility to implement an individualized service plan to be reviewed at least annually by the resident or legal representative.

The residence must ensure that it does not accept or retain a resident who has exhibited behaviors which indicate that he or she is a danger to self or others or requires physical or chemical restraint. The resident must not require skilled nursing services or more than one person to physically assist the resident with any activity of daily living, except bathing. The resident must not be bed-bound or similarly immobilized due to a debilitating or chronic condition.

The facility must also develop a plan to protect the rights, privacy, and safety of all residents. The proposal repeals the requirement that residential care facilities can only admit persons who are capable mentally and physically of negotiating a normal path to safety under certain conditions. This proposal requires if an assisted living facility accepts an individual with a physical, cognitive, or other impairment that prevents the resident from safely evacuating the

DESCRIPTION (continued)

residence with minimal assistance, the facility must have sufficient staff present twenty-four hours a day to assist in evacuations and must contain an individualized evacuation plan for such a resident and ensure that the resident is housed only on the ground floor of the facility. The facility shall also be equipped with an automatic sprinkler system, an automated fire door system and smoke alarms compliant with national fire codes. This proposal also provides a hospice exception to the pathway to safety provisions.

The facility must take measures to allow residents the opportunity to explore the facility and grounds and use personal electronic monitoring device for any resident whose physician recommends the use of the device.

Licensed facilities must also disclose to a prospective resident information regarding the services the facility is able to provide, costs of such services to the resident, and the conditions that will require discharge or transfer from the facility.

This proposal provides that after January 1, 2007, no facility shall hold itself out as an assisted living facility or advertise itself as an assisted living facility without obtaining a license from the department of health and senior services to operate as an assisted living facility except that any facility licensed by the department as of January 1, 2006 shall not be subject to the provisions of this proposal until January 1, 2008.

For purposes of receiving supplemental welfare assistance payments, any residential care facility licensed as a residential care facility II immediately prior to the effective date of this proposal and that continues to meet such licensure requirements for a residential care facility II shall continue to receive the payment amount for a residential care facility II.

Any facility licensed as a residential care facility on August 27, 2006, shall be granted a license as an assisted living facility, on August 28, 2006, regardless of the laws, rules, and regulations for licensure as an assisted living facility as long as such facility continues to meet all laws, rules, and regulations that were in place on August 27, 2006, for a residential care facility II. At such time that the average total reimbursement for the care of persons eligible for Medicaid in an assisted living facility is equal to or exceeds forty-five percent of the average total reimbursement rate for care of such persons in a skilled nursing facility, all facilities with a license as an assisted living facility shall meet all laws, rules, and regulations for licensure as an assisted living facility. An individual admitted or readmitted to the facility shall have an admission physical examination by a licensed physician. Documentation should be obtained prior to admission but shall be on file not later than ten days after admission and shall contain information regarding the individual's current medical status and any special orders or procedures that should be followed.

DESCRIPTION (continued)

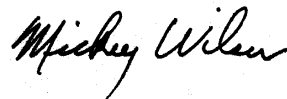
If the individual is admitted directly from a hospital or another long-term care facility and is accompanied on admission by a report that reflects his or her current medical status, an admission physical shall not be required.

For assisted living facilities built after August 28, 2006, or which have major renovations after August 28, 2006, such single-level assisted living facilities or the major renovation portion shall be equipped with an automatic sprinkler system in compliance with National Fire Protection Association Code, or for such multilevel assisted living facilities or the major renovation portion shall be equipped with an automatic sprinkler system in compliance with National Fire Protection Association Code and each floor shall be divided into two smoke sections and fire alarms in compliance with Life Safety Codes for Existing Health Care Occupancy. Existing facilities seeking to be licensed as assisted living facilities shall meet the fire safety standards for residential care facilities II in effect on August 28, 2006, unless such facilities seek to admit one or more individuals with physical, cognitive, or other impairments that prevent the individuals from safely evacuating the facility with minimal assistance.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Social Services
Department of Mental Health
Department of Public Safety -
Division of Fire Safety
Department of Health and Senior Services



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Director
May 3, 2006