

By the Committees on Children, Families, and Elder Affairs; and
Children, Families, and Elder Affairs

586-02377-12

20122050c1

1 A bill to be entitled
2 An act relating to assisted living facilities;
3 amending s. 394.4574, F.S.; requiring that the case
4 manager assigned to a mental health resident of an
5 assisted living facility that holds a limited mental
6 health license keep a record of the date and time of
7 face-to-face interactions with the mental health
8 resident and make the record available to the
9 Department of Children and Family Services for
10 inspection; requiring that the record be maintained
11 for a specified number of years; requiring that the
12 department ensure that there is adequate and
13 consistent monitoring and enforcement of community
14 living support plans and cooperative agreements;
15 amending s. 400.0078, F.S.; requiring that, upon
16 admission to a long-term care facility, a resident or
17 his or her representative receive information
18 regarding the confidentiality of any complainant's
19 identity and the subject matter of the complaint;
20 amending s. 415.103, F.S.; requiring that the
21 department maintain a central abuse hotline that
22 receives all reports made regarding incidents of abuse
23 or neglect which are recorded by an electronic
24 monitoring device in a resident's room of an assisted
25 living facility; amending s. 415.1034, F.S.; requiring
26 that certain employees or agents of any state or local
27 agency report the abuse, neglect, or exploitation of a
28 vulnerable adult to the central abuse hotline;
29 amending s. 429.02, F.S.; defining the term "mental

586-02377-12

20122050c1

30 health professional" as it relates to the Assisted
31 Living Facilities Act; amending s. 429.075, F.S.;
32 requiring that an assisted living facility that serves
33 any mental health resident obtain a limited mental
34 health license; revising the training requirements for
35 administrators and staff members of a facility that is
36 licensed to provide services to mental health
37 residents; amending ss. 429.176 and 429.178, F.S.;
38 conforming cross-references; amending s. 429.28, F.S.;
39 revising the bill of rights for residents of assisted
40 living facilities with regard to notice of relocation
41 or termination of residency and placement of an
42 electronic monitoring device in the resident's room;
43 revising requirements for a written notice of the
44 rights, obligations, and prohibitions which is
45 provided to a resident of an assisted living facility;
46 creating s. 429.281, F.S.; providing definitions;
47 requiring that an assisted living facility comply with
48 notice of relocation or termination of residency from
49 the facility when a decision is made to relocate or
50 terminate the residency of a resident; providing
51 requirements and procedures for notice and a hearing
52 with regard to relocation of a resident or termination
53 of the residency of a resident; requiring that the
54 Department of Children and Family Services adopt
55 rules; providing for application; amending s. 429.52,
56 F.S.; requiring that a newly hired employee or
57 administrator of an assisted living facility attend a
58 preservice orientation provided by the assisted living

586-02377-12

20122050c1

59 facility; providing topics that must be covered in the
60 preservice orientation; requiring that the employee
61 and administrator sign an affidavit upon completion of
62 the preservice orientation; requiring that the
63 administrator of the assisted living facility maintain
64 the signed affidavit in each employee's work file;
65 deleting provisions regarding minimum training and
66 core educational requirements for administrators and
67 other staff; deleting provisions requiring the
68 Department of Elderly Affairs to establish training
69 requirements and a competency test by rule; deleting
70 provisions governing the registration of persons
71 providing training; creating s. 429.50, F.S.;
72 effective July 1, 2013, prohibiting an assisted living
73 facility from operating unless it is under the
74 management of an administrator who holds a valid
75 license or provisional license issued by the
76 Department of Health; providing eligibility
77 requirements to be licensed as an assisted living
78 facility administrator; providing an exception from
79 the requirement to complete the educational and core
80 training requirements and pass a competency test;
81 providing additional requirements for licensure as an
82 administrator of an assisted living facility that has
83 a mental health license; providing that an
84 administrator licensed under part II of ch. 468, F.S.,
85 is exempt from certain educational and core training
86 requirements and the required competency test;
87 providing additional licensure requirements for an

586-02377-12

20122050c1

88 administrator licensed under part II of ch. 468, F.S.,
89 who is employed at an assisted living facility that
90 has a mental health license; providing that other
91 licensed professionals may be exempted, as determined
92 by rule by the Department of Health; requiring that
93 the Department of Health issue a license to an
94 applicant who successfully completes the training,
95 passes the competency tests, and provides proof of the
96 required education; requiring that the Department of
97 Health establish licensure fees for licensure as an
98 assisted living facility administrator; authorizing
99 the Department of Health to adopt rules; creating s.
100 429.512, F.S.; authorizing the Department of Health to
101 establish requirements for issuing a provisional
102 license; providing the conditions under which a
103 provisional license is issued; authorizing the
104 Department of Health to set an application fee;
105 providing conditions under which an administrator's
106 license becomes inactive; requiring that the
107 Department of Health adopt rules governing application
108 procedures for inactive licenses, the renewal of
109 inactive licenses, and the reactivation of licenses;
110 requiring that the Department of Health establish
111 application fees for inactive license status, a
112 renewal fee for inactive license status, a delinquency
113 fee, and a fee for the reactivation of a license;
114 prohibiting the Department of Health from reactivating
115 a license unless the licensee pays the required fees;
116 creating s. 429.521, F.S.; requiring that each

586-02377-12

20122050c1

117 administrator, applicant to become an assisted living
118 facility administrator, and staff member of an
119 assisted living facility meet minimum training
120 requirements established by the Department of Elderly
121 Affairs; requiring that the department, in conjunction
122 with the Department of Children and Family Services
123 and stakeholders, establish a standardized core
124 training curriculum to be completed by an applicant
125 for licensure as an assisted living facility
126 administrator; providing minimum requirements for the
127 training curriculum; requiring that the Department of
128 Elderly Affairs, in conjunction with the Department of
129 Children and Family Services and stakeholders, develop
130 a supplemental course consisting of topics related to
131 extended congregate care, limited mental health, and
132 business operations; requiring that the Department of
133 Elderly Affairs, in conjunction with the Department of
134 Children and Family Services and stakeholders,
135 establish a standardized core training curriculum for
136 staff members who provide regular or direct care to
137 residents of an assisted living facility; providing
138 requirements for the training curriculum; requiring
139 that the Department of Elderly Affairs, in conjunction
140 with the Agency for Health Care Administration and
141 stakeholders, create competency tests to test an
142 individual's comprehension of the training; providing
143 requirements for the competency tests; requiring that
144 the Department of Elderly Affairs, in conjunction with
145 the Department of Children and Family Services,

586-02377-12

20122050c1

146 develop a comprehensive, standardized training
147 curriculum and competency test to satisfy the
148 requirements for mental health training; requiring
149 that the Department of Elderly Affairs, in conjunction
150 with the Department of Children and Family Services
151 and stakeholders, establish curricula for continuing
152 education for administrators and staff members of an
153 assisted living facility; providing minimum
154 requirements for the required continuing education;
155 requiring that the Department of Elderly Affairs
156 ensure that all continuing education curricula include
157 a test upon completion of the training which
158 demonstrates comprehension of the training; requiring
159 the Department of Elderly Affairs to adopt rules;
160 requiring that an applicant for licensure as an
161 assisted living facility administrator complete a
162 minimum number of hours of training and take a
163 competency test; providing a minimum passing score for
164 the competency test; providing requirements for an
165 applicant who fails the competency test; requiring
166 that a licensed administrator receive inservice
167 training regarding the facility's policies and
168 procedures related to resident elopement response;
169 requiring that a licensed administrator of an assisted
170 living facility that has a limited mental health
171 license complete a minimum number of hours of mental
172 health training and pass a competency test related to
173 the training; requiring that a licensed administrator
174 of an assisted living facility that has an extended

586-02377-12

20122050c1

175 congregate care license complete a minimum number of
176 hours of extended congregate care training; requiring
177 that a licensed administrator of an assisted living
178 facility that has a limited nursing services license
179 complete a minimum number of hours of training related
180 to the special needs and care of those persons who
181 require limited nursing services; requiring that a
182 licensed administrator participate in continuing
183 education for a minimum number of contact hours and
184 pass the corresponding test upon completion of the
185 continuing education course; requiring that a staff
186 member of an assisted living facility receive
187 inservice training regarding the facility's policies
188 and procedures related to resident elopement response;
189 requiring that certain staff members of an assisted
190 living facility complete a minimum number of hours of
191 core training; providing for exemptions; requiring
192 that certain staff members of an assisted living
193 facility take a competency test that assesses the
194 staff member's knowledge and comprehension of the
195 required core training; providing a minimum passing
196 score for the competency test; providing requirements
197 for a staff member who fails the competency test;
198 requiring that a staff member who provides regular or
199 direct care to residents of an assisted living
200 facility that has a limited mental health license
201 complete a minimum number of hours of mental health
202 training and take a competency test; providing a
203 minimum passing score; prohibiting a staff member from

586-02377-12

20122050c1

204 providing direct care to residents until the staff
205 member passes the competency test; requiring that a
206 staff member of an assisted living facility who
207 prepares or serves food receive inservice training in
208 safe food handling practices; requiring that a staff
209 member of an assisted living facility who manages
210 medications and assists with the self-administration
211 of medications complete training provided by a
212 registered nurse, licensed pharmacist, or department
213 staff; requiring that the Department of Elderly
214 Affairs establish requirements for the training;
215 requiring that other staff members of an assisted
216 living facility participate in training relevant to
217 their job duties as specified by rule of the
218 department; authorizing the Department of Elderly
219 Affairs or the Agency for Health Care Administration
220 to provide additional training if necessary; requiring
221 that staff members who provide regular or direct care
222 to residents of an assisted living facility
223 participate in continuing education and pass the
224 corresponding test upon completion of the continuing
225 education course; prohibiting a staff member from
226 providing regular or direct care to residents under
227 certain conditions; creating s. 429.522, F.S.;

228 providing definitions; requiring that the Department
229 of Elderly Affairs approve and provide oversight for
230 third-party credentialing entities for the purpose of
231 developing and administering trainer certification
232 programs for persons providing training to applicants

586-02377-12

20122050c1

233 for licensure as an assisted living facility
234 administrator, to administrators of an assisted living
235 facility, and to staff members of an assisted living
236 facility; requiring that a third-party credentialing
237 entity meet certain requirements in order to obtain
238 approval for developing and administering the trainer
239 certification programs; requiring that an individual
240 seeking trainer certification provide a third-party
241 credentialing entity with proof of certain
242 requirements; requiring that the Department of Elderly
243 Affairs adopt rules; creating s. 429.55, F.S.;

244 providing definitions; defining when an electronic
245 monitoring device that is placed in the room of a
246 resident of an assisted living facility is considered
247 to be covert; providing that the Agency for Health
248 Care Administration and the facility are not civilly
249 liable in connection with the covert placement or use
250 of an electronic monitoring device in the room of the
251 resident; requiring that the agency prescribe by rule
252 a form that must be completed and signed when a
253 resident is admitted to a facility; providing
254 requirements for the form; authorizing certain persons
255 to request electronic monitoring; providing for the
256 form prescribed by the agency to require that the
257 resident release the facility from any civil liability
258 for a violation of the resident's privacy rights in
259 connection with the use of the electronic monitoring
260 device, choose whether the camera will be
261 unobstructed, and obtain the consent of the other

586-02377-12

20122050c1

262 residents in the room if the resident resides in a
263 multiperson room; requiring prior consent under
264 certain circumstances; requiring that the agency adopt
265 rules; requiring that the facility allow a resident or
266 the resident's guardian or legal representative to
267 monitor the room of the resident through the use of
268 electronic monitoring devices; requiring that the
269 facility require a resident who conducts authorized
270 electronic monitoring to post a conspicuous notice at
271 the entrance of the resident's room; providing that
272 electronic monitoring of the room of a resident is not
273 compulsory; prohibiting a facility from refusing to
274 admit an individual to residency in the facility or
275 from removing a resident from the facility because of
276 a request to conduct authorized electronic monitoring;
277 requiring that a facility make reasonable physical
278 accommodations for authorized electronic monitoring;
279 authorizing a facility to require that an electronic
280 monitoring device be installed in a manner that is
281 safe; authorizing a facility to require that a
282 resident conduct electronic monitoring in plain view;
283 authorizing a facility to place a resident in a
284 different room in order to accommodate a request to
285 conduct authorized electronic monitoring; requiring
286 that a person report abuse or neglect to the central
287 abuse hotline of the Department of Children and Family
288 Services based on the person's viewing of or listening
289 to a tape or recording; providing requirements for
290 reporting the abuse or neglect; providing that a tape

586-02377-12

20122050c1

291 or recording created through the use of covert or
292 authorized electronic monitoring may be admitted into
293 evidence in a civil or criminal court action or
294 administrative proceeding; providing requirements for
295 such admission; requiring that each facility post a
296 notice at the entrance to the facility stating that
297 the rooms of some residents are monitored
298 electronically by or on behalf of the residents;
299 authorizing the Agency for Health Care Administration
300 to impose administrative sanctions against an
301 administrator of an assisted living facility under
302 certain circumstances; requiring the agency to adopt
303 rules; providing an effective date.

304

305 Be It Enacted by the Legislature of the State of Florida:

306

307 Section 1. Subsection (2) of section 394.4574, Florida
308 Statutes, is amended to read:

309 394.4574 Department responsibilities for a mental health
310 resident who resides in an assisted living facility that holds a
311 limited mental health license.—

312 (2) The department must ensure that:

313 (a) A mental health resident has been assessed by a
314 psychiatrist, clinical psychologist, clinical social worker, or
315 psychiatric nurse, or an individual who is supervised by one of
316 these professionals, and determined to be appropriate to reside
317 in an assisted living facility. The documentation must be
318 provided to the administrator of the facility within 30 days
319 after the mental health resident has been admitted to the

586-02377-12

20122050c1

320 facility. An evaluation completed upon discharge from a state
321 mental hospital meets the requirements of this subsection
322 related to appropriateness for placement as a mental health
323 resident if it was completed within 90 days prior to admission
324 to the facility.

325 (b) A cooperative agreement, as required in s. 429.075, is
326 developed between the mental health care services provider that
327 serves a mental health resident and the administrator of the
328 assisted living facility with a limited mental health license in
329 which the mental health resident is living. Any entity that
330 provides Medicaid prepaid health plan services shall ensure the
331 appropriate coordination of health care services with an
332 assisted living facility in cases where a Medicaid recipient is
333 both a member of the entity's prepaid health plan and a resident
334 of the assisted living facility. If the entity is at risk for
335 Medicaid targeted case management and behavioral health
336 services, the entity shall inform the assisted living facility
337 of the procedures to follow should an emergent condition arise.

338 (c) The community living support plan, as defined in s.
339 429.02, has been prepared by a mental health resident and a
340 mental health case manager of that resident in consultation with
341 the administrator of the facility or the administrator's
342 designee. The plan must be provided to the administrator of the
343 assisted living facility with a limited mental health license in
344 which the mental health resident lives. The support plan and the
345 agreement may be in one document.

346 (d) The assisted living facility with a limited mental
347 health license is provided with documentation that the
348 individual meets the definition of a mental health resident.

586-02377-12

20122050c1

349 (e) The mental health services provider assigns a case
350 manager to each mental health resident who lives in an assisted
351 living facility with a limited mental health license. The case
352 manager is responsible for coordinating the development of and
353 implementation of the community living support plan defined in
354 s. 429.02. The plan must be updated at least annually in order
355 to ensure that the ongoing needs of the resident are addressed.
356 Each case manager shall keep a record of the date and time of
357 any face-to-face interaction with a mental health resident and
358 make the record available to the department for inspection. The
359 record must be maintained for 2 years following the date of the
360 interaction.

361 (f) There is adequate and consistent monitoring and
362 enforcement of community living support plans and cooperative
363 agreements.

364 Section 2. Subsection (2) of section 400.0078, Florida
365 Statutes, is amended to read:

366 400.0078 Citizen access to State Long-Term Care Ombudsman
367 Program services.—

368 (2) Every resident or representative of a resident shall
369 receive, upon admission to a long-term care facility,
370 information regarding the purpose of the State Long-Term Care
371 Ombudsman Program, the statewide toll-free telephone number for
372 receiving complaints, the confidentiality of a complainant's
373 name and identity and of the subject matter of a complaint, and
374 other relevant information regarding how to contact the program.
375 Residents or their representatives must be furnished additional
376 copies of this information upon request.

377 Section 3. Subsection (1) of section 415.103, Florida

586-02377-12

20122050c1

378 Statutes, is amended to read:

379 415.103 Central abuse hotline.—

380 (1) The department shall establish and maintain a central
381 abuse hotline that receives all reports made pursuant to s.
382 415.1034 or s. 429.55 in writing or through a single statewide
383 toll-free telephone number. Any person may use the statewide
384 toll-free telephone number to report known or suspected abuse,
385 neglect, or exploitation of a vulnerable adult at any hour of
386 the day or night, any day of the week. The central abuse hotline
387 must be operated in such a manner as to enable the department
388 to:

389 (a) Accept reports for investigation when there is a
390 reasonable cause to suspect that a vulnerable adult has been or
391 is being abused, neglected, or exploited.

392 (b) Determine whether the allegations made by the reporter
393 require an immediate, 24-hour, or next-working-day response
394 priority.

395 (c) When appropriate, refer calls that do not allege the
396 abuse, neglect, or exploitation of a vulnerable adult to other
397 organizations that might better resolve the reporter's concerns.

398 (d) Immediately identify and locate prior reports of abuse,
399 neglect, or exploitation through the central abuse hotline.

400 (e) Track critical steps in the investigative process to
401 ensure compliance with all requirements for all reports.

402 (f) Maintain data to facilitate the production of aggregate
403 statistical reports for monitoring patterns of abuse, neglect,
404 or exploitation.

405 (g) Serve as a resource for the evaluation, management, and
406 planning of preventive and remedial services for vulnerable

586-02377-12

20122050c1

407 adults who have been subject to abuse, neglect, or exploitation.

408 Section 4. Paragraph (a) of subsection (1) of section
409 415.1034, Florida Statutes, is amended to read:

410 415.1034 Mandatory reporting of abuse, neglect, or
411 exploitation of vulnerable adults; mandatory reports of death.-

412 (1) MANDATORY REPORTING.-

413 (a) Any person, including, but not limited to, any:

414 1. Physician, osteopathic physician, medical examiner,
415 chiropractic physician, nurse, paramedic, emergency medical
416 technician, or hospital personnel engaged in the admission,
417 examination, care, or treatment of vulnerable adults;

418 2. Health professional or mental health professional other
419 than one listed in subparagraph 1.;

420 3. Practitioner who relies solely on spiritual means for
421 healing;

422 4. Nursing home staff; assisted living facility staff;
423 adult day care center staff; adult family-care home staff;
424 social worker; or other professional adult care, residential, or
425 institutional staff;

426 5. State, county, or municipal criminal justice employee or
427 law enforcement officer;

428 6. An employee of the Department of Business and
429 Professional Regulation conducting inspections of public lodging
430 establishments under s. 509.032;

431 7. Florida advocacy council member or long-term care
432 ombudsman council member; ~~or~~

433 8. Bank, savings and loan, or credit union officer,
434 trustee, or employee; or

435 9. Employee or agent of any state or local agency that has

586-02377-12

20122050c1

436 regulatory responsibilities concerning, or provides services to,
437 persons in state-licensed facilities,

438

439 who knows, or has reasonable cause to suspect, that a vulnerable
440 adult has been or is being abused, neglected, or exploited shall
441 immediately report such knowledge or suspicion to the central
442 abuse hotline.

443 Section 5. Present subsections (15) through (26) of section
444 429.02, Florida Statutes, are renumbered as subsections (16)
445 through (27), respectively, and a new subsection (15) is added
446 to that section, to read:

447 429.02 Definitions.—When used in this part, the term:

448 (15) "Mental health professional" means an individual
449 licensed under chapter 458, chapter 459, chapter 464, chapter
450 490, or chapter 491 who provides mental health services as
451 defined under s. 394.67, or an individual who has a 4-year
452 baccalaureate degree from an accredited college or university
453 and at least 5 years of experience providing services that
454 improve an individual's mental health or treat mental illness.

455 Section 6. Section 429.075, Florida Statutes, is amended to
456 read:

457 429.075 Limited mental health license.—An assisted living
458 facility that serves any ~~three or more~~ mental health resident
459 ~~residents~~ must obtain a limited mental health license.

460 (1) To obtain a limited mental health license, a facility
461 must hold a standard license as an assisted living facility and
462 must not have any current uncorrected deficiencies or
463 violations. ~~The, and must ensure that, within 6 months after~~
464 ~~receiving a limited mental health license, the facility~~

586-02377-12

20122050c1

465 ~~administrator and the staff of the facility who are in direct~~
466 ~~contact with mental health residents must complete training of~~
467 ~~no less than 6 hours related to their duties. Such designation~~
468 may be made at the time of initial licensure or relicensure or
469 upon request in writing by a licensee under this part and part
470 II of chapter 408. Notification of approval or denial of such
471 request shall be made in accordance with this part, part II of
472 chapter 408, and applicable rules. This training will be
473 provided by or approved by the Department of Children and Family
474 Services.

475 (2) A facility ~~Facilities~~ licensed to provide services to
476 mental health residents shall provide appropriate supervision
477 and staffing to provide for the health, safety, and welfare of
478 such residents. Each administrator and staff member, who
479 provides regular or direct care to residents, of a facility
480 licensed to provide services to mental health residents must
481 meet the limited mental health training requirements set forth
482 in s. 429.521 in addition to any other training or education
483 requirements.

484 (3) A facility that has a limited mental health license
485 must:

486 (a) Have a copy of each mental health resident's community
487 living support plan and the cooperative agreement with the
488 mental health care services provider. The support plan and the
489 agreement may be combined.

490 (b) Have documentation that is provided by the Department
491 of Children and Family Services that each mental health resident
492 has been assessed and determined to be able to live in the
493 community in an assisted living facility with a limited mental

586-02377-12

20122050c1

494 health license.

495 (c) Make the community living support plan available for
496 inspection by the resident, the resident's legal guardian, the
497 resident's health care surrogate, and other individuals who have
498 a lawful basis for reviewing this document.

499 (d) Assist the mental health resident in carrying out the
500 activities identified in the individual's community living
501 support plan.

502 (4) A facility with a limited mental health license may
503 enter into a cooperative agreement with a private mental health
504 provider. For purposes of the limited mental health license, the
505 private mental health provider may act as the case manager.

506 Section 7. Section 429.176, Florida Statutes, is amended to
507 read:

508 429.176 Notice of change of administrator.—If, during the
509 period for which a license is issued, the owner changes
510 administrators, the owner must notify the agency of the change
511 within 10 days and provide documentation within 90 days that the
512 new administrator is licensed under s. 429.50 and has completed
513 the applicable core training ~~educational~~ requirements under s.
514 429.521(2) ~~s. 429.52~~.

515 Section 8. Subsection (2) of section 429.178, Florida
516 Statutes, is amended to read:

517 429.178 Special care for persons with Alzheimer's disease
518 or other related disorders.—

519 (2) (a) An individual who is employed by a facility that
520 provides special care for residents with Alzheimer's disease or
521 other related disorders, and who has regular contact with such
522 residents, must complete up to 4 hours of initial dementia-

586-02377-12

20122050c1

523 specific training developed or approved by the department. The
524 training shall be completed within 3 months after beginning
525 employment and shall satisfy the core training requirements of
526 s. 429.521(3) ~~s. 429.52(2)(g)~~.

527 (b) A direct caregiver who is employed by a facility that
528 provides special care for residents with Alzheimer's disease or
529 other related disorders, and who provides direct care to such
530 residents, must complete the required initial training and 4
531 additional hours of training developed or approved by the
532 department. The training shall be completed within 9 months
533 after beginning employment and shall satisfy the core training
534 requirements of s. 429.521(3) ~~s. 429.52(2)(g)~~.

535 (c) An individual who is employed by a facility that
536 provides special care for residents with Alzheimer's disease or
537 other related disorders, but who only has incidental contact
538 with such residents, must be given, at a minimum, general
539 information on interacting with individuals with Alzheimer's
540 disease or other related disorders, within 3 months after
541 beginning employment.

542 Section 9. Subsections (1) and (2) of section 429.28,
543 Florida Statutes, are amended to read:

544 429.28 Resident bill of rights.—

545 (1) A ~~No~~ resident of a facility may not ~~shall~~ be deprived
546 of any civil or legal rights, benefits, or privileges guaranteed
547 by law, the Constitution of the State of Florida, or the
548 Constitution of the United States as a resident of a facility.
549 Every resident of a facility shall have the right to:

550 (a) Live in a safe and decent living environment, free from
551 abuse and neglect.

586-02377-12

20122050c1

552 (b) Be treated with consideration and respect and with due
553 recognition of personal dignity, individuality, and the need for
554 privacy.

555 (c) Retain and use his or her own clothes and other
556 personal property in his or her immediate living quarters, so as
557 to maintain individuality and personal dignity, except when the
558 facility can demonstrate that such would be unsafe, impractical,
559 or an infringement upon the rights of other residents.

560 (d) Unrestricted private communication, including receiving
561 and sending unopened correspondence, access to a telephone, and
562 visiting with any person of his or her choice, at any time
563 between the hours of 9 a.m. and 9 p.m. at a minimum. Upon
564 request, the facility shall make provisions to extend visiting
565 hours for caregivers and out-of-town guests, and in other
566 similar situations.

567 (e) Freedom to participate in and benefit from community
568 services and activities and to achieve the highest possible
569 level of independence, autonomy, and interaction within the
570 community.

571 (f) Manage his or her financial affairs unless the resident
572 or, if applicable, the resident's representative, designee,
573 surrogate, guardian, or attorney in fact authorizes the
574 administrator of the facility to provide safekeeping for funds
575 as provided in s. 429.27.

576 (g) Share a room with his or her spouse if both are
577 residents of the facility.

578 (h) Reasonable opportunity for regular exercise several
579 times a week and to be outdoors at regular and frequent
580 intervals except when prevented by inclement weather.

586-02377-12

20122050c1

581 (i) Exercise civil and religious liberties, including the
582 right to independent personal decisions. No religious beliefs or
583 practices, nor any attendance at religious services, shall be
584 imposed upon any resident.

585 (j) Access to adequate and appropriate health care
586 consistent with established and recognized standards within the
587 community.

588 (k) At least 30 ~~45~~ days' notice of relocation or
589 termination of residency from the facility unless, for medical
590 reasons, the resident is certified by a physician to require an
591 emergency relocation to a facility providing a more skilled
592 level of care or the resident engages in a pattern of conduct
593 that is harmful or offensive to other residents. In the case of
594 a resident who has been adjudicated mentally incapacitated, the
595 guardian shall be given at least 30 ~~45~~ days' notice of a
596 nonemergency relocation or residency termination. Reasons for
597 relocation shall be set forth in writing. A resident or the
598 resident's legal guardian or representative may challenge the
599 notice of relocation or termination of residency from the
600 facility pursuant to s. 429.281. ~~In order for a facility to~~
601 ~~terminate the residency of an individual without notice as~~
602 ~~provided herein, the facility shall show good cause in a court~~
603 ~~of competent jurisdiction.~~

604 (l) Present grievances and recommend changes in policies,
605 procedures, and services to the staff of the facility, governing
606 officials, or any other person without restraint, interference,
607 coercion, discrimination, or reprisal. Each facility shall
608 establish a grievance procedure to facilitate the residents'
609 exercise of this right. This right includes access to ombudsman

586-02377-12

20122050c1

610 volunteers and advocates and the right to be a member of, to be
611 active in, and to associate with advocacy or special interest
612 groups.

613 (m) Place in the resident's room an electronic monitoring
614 device that is owned and operated by the resident or provided by
615 the resident's guardian or legal representative pursuant to s.
616 429.55.

617 (2) The administrator of a facility shall ensure that a
618 written notice of the rights, obligations, and prohibitions set
619 forth in this part is posted in a prominent place in each
620 facility and read or explained to residents who cannot read.
621 This notice shall include the name, address, and telephone
622 numbers of the local ombudsman council and central abuse hotline
623 and, when applicable, the Advocacy Center for Persons with
624 Disabilities, Inc., and the Florida local advocacy council,
625 where complaints may be lodged. The notice must state that the
626 names or identities of the complainants, or residents involved
627 in a complaint, and the subject matter of a complaint made to
628 the Office of State Long-Term Care Ombudsman or a local long-
629 term care ombudsman council are confidential pursuant to s.
630 400.0077. The facility must ensure a resident's access to a
631 telephone to call the local ombudsman council, central abuse
632 hotline, Advocacy Center for Persons with Disabilities, Inc.,
633 and the Florida local advocacy council.

634 Section 10. Section 429.281, Florida Statutes, is created
635 to read:

636 429.281 Resident relocation or termination of residency;
637 requirements and procedures; hearings.-

638 (1) As used in this section, the term:

586-02377-12

20122050c1

639 (a) "Relocation" means to move a resident from the facility
640 to another facility that is responsible for the resident's care.

641 (b) "Termination of residency" means to release a resident
642 from the facility and the releasing facility ceases to be
643 responsible for the resident's care.

644 (2) Each facility licensed under this part must comply with
645 s. 429.28(1)(k) when a decision is made to relocate or terminate
646 the residency of a resident.

647 (3) At least 30 days before a proposed relocation or
648 termination of residency, the facility must provide advance
649 notice of the proposed relocation or termination of residency to
650 the resident and, if known, to a family member or the resident's
651 legal guardian or representative. However, in the following
652 circumstances the facility shall give notice as soon as is
653 practicable before the relocation or termination of residency:

654 (a) The relocation or termination of residency is necessary
655 for the resident's welfare or because the resident's needs
656 cannot be met in the facility, and the circumstances are
657 documented in the resident's record; or

658 (b) The health or safety of other residents or employees of
659 the facility would be endangered, and the circumstances are
660 documented in the resident's record.

661 (4) The notice required by subsection (3) must be in
662 writing and contain all information required by rule. The agency
663 shall develop a standard document to be used by all facilities
664 licensed under this part for purposes of notifying residents of
665 a relocation or termination of residency. This document must
666 include information on how a resident may request the local
667 long-term care ombudsman council to review the notice and

586-02377-12

20122050c1

668 request information about or assistance with initiating a
669 hearing with the Office of Appeals Hearings of the Department of
670 Children and Family Services to challenge the relocation or
671 termination of residency. In addition to any other pertinent
672 information, the form must require the facility to specify the
673 reason that the resident is being relocated or the residency is
674 being terminated, along with an explanation to support this
675 action. In addition, the form must require the facility to state
676 the effective date of the relocation or termination of residency
677 and the location to which the resident is being relocated, if
678 known. The form must clearly describe the resident's challenge
679 rights and the procedures for filing a challenge. A copy of the
680 notice must be given to the resident, the resident's legal
681 guardian or representative, if applicable, and the local long-
682 term care ombudsman council within 5 business days after
683 signature by the resident or the resident's legal guardian or
684 representative, and a copy must be placed in the resident's
685 file.

686 (5) A resident is entitled to a hearing to challenge a
687 facility's proposed relocation or termination of residency. A
688 resident may request that the local long-term care ombudsman
689 council review any notice of relocation or termination of
690 residency given to the resident. If requested, the local long-
691 term care ombudsman council shall assist the resident, or the
692 resident's legal guardian or representative, with filing a
693 challenge to the proposed relocation or termination of
694 residency. The resident, or the resident's legal guardian or
695 representative, may request a hearing at any time within 10 days
696 after the resident's receipt of the facility's notice of the

586-02377-12

20122050c1

697 proposed relocation or termination of residency. If a resident,
698 or the resident's legal guardian or representative, requests a
699 hearing, the request shall stay the proposed relocation or
700 termination of residency pending a decision from the hearing
701 officer. The facility may not impede the resident's right to
702 remain in the facility, and the resident may remain in the
703 facility until the outcome of the initial hearing, which must be
704 completed within 15 days after receipt of a request for a
705 hearing, unless:

706 (a) Both the facility and the resident, or the resident's
707 legal guardian or representative, agree to extend the deadline
708 for the decision; or

709 (b) Good cause to extend the deadline is given by either
710 party.

711 (6) Notwithstanding subsection (5), an emergency relocation
712 or termination of residency may be implemented as necessary
713 pursuant to state or federal law during the period after the
714 notice is given and before the time in which the hearing officer
715 renders a decision. Notice of an emergency relocation or
716 termination of residency must be made by telephone or in person
717 and given to the resident, the resident's legal guardian or
718 representative, and the local long-term care ombudsman council,
719 if requested. This notice must be given before the relocation,
720 if possible, or as soon thereafter as practical. The resident's
721 file must contain documentation to show who was contacted,
722 whether the contact was by telephone or in person, and the date
723 and time of the contact. Written notice that meets the
724 requirements of subsection (4) must be given the next business
725 day.

586-02377-12

20122050c1

726 (7) The following persons must be present at each hearing
727 authorized under this section:

728 (a) The resident or the resident's legal guardian or
729 representative.

730 (b) The facility administrator or the facility's legal
731 representative or designee.

732
733 A representative of the local long-term care ombudsman council
734 may be present at each hearing authorized by this section.

735 (8) (a) The Office of Appeals Hearings of the Department of
736 Children and Family Services shall conduct hearings under this
737 section. The office shall notify the facility of a resident's
738 request for a hearing.

739 (b) The Department of Children and Family Services shall
740 establish procedures by rule which shall be used for hearings
741 requested by residents. The burden of proof is by the
742 preponderance of the evidence. A hearing officer shall render a
743 decision within 15 days after receipt of the request for a
744 hearing, unless:

745 1. The facility and the resident, or the resident's legal
746 guardian or representative, agree to extend the deadline for a
747 decision; or

748 2. Good cause to extend the deadline is given by either
749 party.

750 (c) If the hearing officer's decision is favorable to a
751 resident who has already been relocated or whose residency has
752 been terminated, the resident must be readmitted to the facility
753 as soon as a bed is available.

754 (d) The decision of the hearing officer is final. Any

586-02377-12

20122050c1

755 aggrieved party may appeal the decision to the district court of
756 appeal in the appellate district where the facility is located.
757 Review procedures shall be conducted in accordance with the
758 Florida Rules of Appellate Procedure.

759 (9) The Department of Children and Family Services may
760 adopt rules as necessary to administer this section.

761 (10) This section applies to relocations or terminations of
762 residency that are initiated by the assisted living facility,
763 and does not apply to those initiated by the resident or by the
764 resident's physician, legal guardian, or representative.

765 Section 11. Section 429.52, Florida Statutes, is amended to
766 read:

767 429.52 Preservice orientation ~~Staff training and~~
768 ~~educational programs; core educational requirement.-~~

769 (1) Each employee and administrator of an assisted living
770 facility who is newly hired on or after July 1, 2012, shall
771 attend a preservice orientation provided by the assisted living
772 facility which covers topics that enable an employee to relate
773 and respond to the population of that facility. The orientation
774 must be at least 2 hours in duration and, at a minimum, cover
775 the following topics:

776 (a) Care of persons who have Alzheimer's disease or other
777 related disorders;

778 (b) Deescalation techniques;

779 (c) Aggression control;

780 (d) Elopement prevention; and

781 (e) Behavior management.

782 (2) Upon completion of the preservice orientation, the
783 employee and administrator shall sign an affidavit, under

586-02377-12

20122050c1

784 penalty of perjury, stating that he or she has completed the
785 preservice orientation. The administrator of the assisted living
786 facility shall maintain the signed affidavit in each employee's
787 work file.

788 ~~(1) Administrators and other assisted living facility staff~~
789 ~~must meet minimum training and education requirements~~
790 ~~established by the Department of Elderly Affairs by rule. This~~
791 ~~training and education is intended to assist facilities to~~
792 ~~appropriately respond to the needs of residents, to maintain~~
793 ~~resident care and facility standards, and to meet licensure~~
794 ~~requirements.~~

795 ~~(2) The department shall establish a competency test and a~~
796 ~~minimum required score to indicate successful completion of the~~
797 ~~training and educational requirements. The competency test must~~
798 ~~be developed by the department in conjunction with the agency~~
799 ~~and providers. The required training and education must cover at~~
800 ~~least the following topics:~~

801 ~~(a) State law and rules relating to assisted living~~
802 ~~facilities.~~

803 ~~(b) Resident rights and identifying and reporting abuse,~~
804 ~~neglect, and exploitation.~~

805 ~~(c) Special needs of elderly persons, persons with mental~~
806 ~~illness, and persons with developmental disabilities and how to~~
807 ~~meet those needs.~~

808 ~~(d) Nutrition and food service, including acceptable~~
809 ~~sanitation practices for preparing, storing, and serving food.~~

810 ~~(e) Medication management, recordkeeping, and proper~~
811 ~~techniques for assisting residents with self-administered~~
812 ~~medication.~~

586-02377-12

20122050c1

813 ~~(f) Firesafety requirements, including fire evacuation~~
814 ~~drill procedures and other emergency procedures.~~

815 ~~(g) Care of persons with Alzheimer's disease and related~~
816 ~~disorders.~~

817 ~~(3) Effective January 1, 2004, a new facility administrator~~
818 ~~must complete the required training and education, including the~~
819 ~~competency test, within a reasonable time after being employed~~
820 ~~as an administrator, as determined by the department. Failure to~~
821 ~~do so is a violation of this part and subjects the violator to~~
822 ~~an administrative fine as prescribed in s. 429.19.~~

823 ~~Administrators licensed in accordance with part II of chapter~~
824 ~~468 are exempt from this requirement. Other licensed~~
825 ~~professionals may be exempted, as determined by the department~~
826 ~~by rule.~~

827 ~~(4) Administrators are required to participate in~~
828 ~~continuing education for a minimum of 12 contact hours every 2~~
829 ~~years.~~

830 ~~(5) Staff involved with the management of medications and~~
831 ~~assisting with the self-administration of medications under s.~~
832 ~~429.256 must complete a minimum of 4 additional hours of~~
833 ~~training provided by a registered nurse, licensed pharmacist, or~~
834 ~~department staff. The department shall establish by rule the~~
835 ~~minimum requirements of this additional training.~~

836 ~~(6) Other facility staff shall participate in training~~
837 ~~relevant to their job duties as specified by rule of the~~
838 ~~department.~~

839 ~~(7) If the department or the agency determines that there~~
840 ~~are problems in a facility that could be reduced through~~
841 ~~specific staff training or education beyond that already~~

586-02377-12

20122050c1

842 ~~required under this section, the department or the agency may~~
843 ~~require, and provide, or cause to be provided, the training or~~
844 ~~education of any personal care staff in the facility.~~

845 ~~(8) The department shall adopt rules related to these~~
846 ~~training requirements, the competency test, necessary~~
847 ~~procedures, and competency test fees and shall adopt or contract~~
848 ~~with another entity to develop a curriculum, which shall be used~~
849 ~~as the minimum core training requirements. The department shall~~
850 ~~consult with representatives of stakeholder associations and~~
851 ~~agencies in the development of the curriculum.~~

852 ~~(9) The training required by this section shall be~~
853 ~~conducted by persons registered with the department as having~~
854 ~~the requisite experience and credentials to conduct the~~
855 ~~training. A person seeking to register as a trainer must provide~~
856 ~~the department with proof of completion of the minimum core~~
857 ~~training education requirements, successful passage of the~~
858 ~~competency test established under this section, and proof of~~
859 ~~compliance with the continuing education requirement in~~
860 ~~subsection (4).~~

861 ~~(10) A person seeking to register as a trainer must also:~~

862 ~~(a) Provide proof of completion of a 4-year degree from an~~
863 ~~accredited college or university and must have worked in a~~
864 ~~management position in an assisted living facility for 3 years~~
865 ~~after being core certified;~~

866 ~~(b) Have worked in a management position in an assisted~~
867 ~~living facility for 5 years after being core certified and have~~
868 ~~1 year of teaching experience as an educator or staff trainer~~
869 ~~for persons who work in assisted living facilities or other~~
870 ~~long term care settings;~~

586-02377-12

20122050c1

871 ~~(c) Have been previously employed as a core trainer for the~~
872 ~~department; or~~

873 ~~(d) Meet other qualification criteria as defined in rule,~~
874 ~~which the department is authorized to adopt.~~

875 ~~(11) The department shall adopt rules to establish trainer~~
876 ~~registration requirements.~~

877 Section 12. Section 429.50, Florida Statutes, is created to
878 read:

879 429.50 Licensure of assisted living facility
880 administrators.—

881 (1) Effective July 1, 2013, an assisted living facility may
882 not operate in this state unless the facility is under the
883 management of an assisted living facility administrator who
884 holds a valid license or provisional license issued by the
885 Department of Health.

886 (2) In order to be eligible to be licensed as an assisted
887 living facility administrator, an applicant must:

888 (a) Be at least 21 years old;

889 (b) Meet the educational requirements under subsection (5);

890 (c) Complete the training requirements in s. 429.521(2);

891 (d) Pass all required competency tests required in s.

892 429.521(2) with a minimum score of 80;

893 (e) Complete background screening pursuant to s. 429.174;

894 and

895 (f) Otherwise meet the requirements of this part.

896 (3) (a) An assisted living facility administrator who has
897 been employed continuously for at least the 2 years immediately
898 before July 1, 2012, is eligible for licensure without meeting
899 the educational requirements of this section and without

586-02377-12

20122050c1

900 completing the core training and passing the competency test
901 required in s. 429.521(2), if proof of compliance with the
902 continuing education requirements in this part is submitted to
903 the Department of Health and the applicant has not been an
904 administrator of a facility that was cited for a class I or
905 class II violation within the previous 2 years.

906 (b) Notwithstanding paragraph (a), an assisted living
907 facility administrator who has been employed continuously for at
908 least the 2 years immediately before July 1, 2012, must complete
909 the mental health training and pass the competency test required
910 in s. 429.521(2)(c) if the administrator is employed at a
911 facility that has a mental health license, and the administrator
912 must complete the supplemental training required in s.
913 429.521(2)(b) before licensure.

914 (4) (a) An administrator who is licensed in accordance with
915 part II of chapter 468 is eligible for licensure without meeting
916 the educational requirements of this section and without
917 completing the core training and passing the competency test
918 required in s. 429.521(2), if proof of compliance with the
919 continuing education requirements in part II of chapter 468 is
920 submitted to the Department of Health. Any other licensed
921 professional may be exempted as determined by the Department of
922 Health by rule.

923 (b) Notwithstanding paragraph (a), an administrator who is
924 licensed in accordance with part II of chapter 468, and any
925 other licensed professional who is exempted by rule, must
926 complete the mental health training and pass the competency test
927 required in s. 429.521(2)(c), if the administrator is employed
928 at a facility that has a mental health license, and must

586-02377-12

20122050c1

929 complete the supplemental training required in s. 429.521(2)(b)
930 before licensure.

931 (5) Before licensure, the applicant must submit to the
932 Department of Health proof that he or she is at least 21 years
933 old and has a 4-year baccalaureate degree that includes some
934 coursework in health care, gerontology, or geriatrics. An
935 applicant who submits proof to the Department of Health that he
936 or she has a 4-year baccalaureate degree or a 2-year associate
937 degree that includes coursework in health care, gerontology, or
938 geriatrics, and has provided at least 2 years of direct care in
939 an assisted living facility or nursing home is also eligible for
940 licensure.

941 (6) The Department of Health shall issue a license as an
942 assisted living facility administrator to any applicant who
943 successfully completes the required training and passes the
944 competency tests in accordance with s. 429.521, provides the
945 requisite proof of required education, and otherwise meets the
946 requirements of this part.

947 (7) The Department of Health shall establish licensure fees
948 for licensure as an assisted living facility administrator,
949 which shall be renewed biennially and may not exceed \$250 for
950 the initial licensure or \$250 for each licensure renewal.

951 (8) The Department of Health may adopt rules as necessary
952 to administer this section.

953 Section 13. Section 429.512, Florida Statutes, is created
954 to read:

955 429.512 Provisional licenses; inactive status.—

956 (1) The Department of Health may establish by rule
957 requirements for issuance of a provisional license. A

586-02377-12

20122050c1

958 provisional license may be issued only for the purpose of
959 filling a position of an assisted living facility administrator
960 which unexpectedly becomes vacant and may be issued for one
961 single period as provided by rule, which may not exceed 6
962 months. The provisional license may be issued to a person who
963 does not meet all of the licensure requirements established in
964 s. 429.50, but the Department of Health shall by rule establish
965 minimal requirements to ensure protection of the public health,
966 safety, and welfare. The provisional license may be issued to
967 the person who is designated as the responsible person next in
968 command if the position of an assisted living facility
969 administrator becomes vacant. The Department of Health may set
970 an application fee for a provisional license which may not
971 exceed \$500.

972 (2) An administrator's license becomes inactive if the
973 administrator does not complete the continuing education courses
974 and pass the corresponding tests within the requisite time or if
975 the administrator does not timely pay the licensure renewal fee.
976 An administrator may also apply for inactive license status. The
977 Department of Health shall adopt rules governing the application
978 procedures for obtaining an inactive license status, the renewal
979 of an inactive license, and the reactivation of a license. The
980 Department of Health shall prescribe by rule an application fee
981 for inactive license status, a renewal fee for inactive license
982 status, a delinquency fee, and a fee for reactivating a license.
983 These fees may not exceed the amount established by the
984 Department of Health for the biennial renewal fee for an active
985 license.

986 (3) The Department of Health may not reactivate a license

586-02377-12

20122050c1

987 unless the inactive or delinquent licensee has completed the
988 requisite continuing education and passed the corresponding
989 tests or has paid any applicable biennial renewal or delinquency
990 fees, and paid the reactivation fee.

991 Section 14. Section 429.521, Florida Statutes, is created
992 to read:

993 429.521 Training requirements.—

994 (1) GENERAL REQUIREMENTS.—

995 (a) Each administrator, applicant to become assisted living
996 facility administrator, or staff member of an assisted living
997 facility must meet minimum training requirements established by
998 rule by the Department of Elderly Affairs. This training is
999 intended to assist facilities in appropriately responding to the
1000 needs of residents, maintaining resident care and facility
1001 standards, and meeting licensure requirements.

1002 (b) The department, in conjunction with the Department of
1003 Children and Family Services and stakeholders, shall establish a
1004 standardized core training curriculum that must be completed by
1005 an applicant for licensure as an assisted living facility
1006 administrator. The curriculum must be offered in English and
1007 Spanish, reviewed annually, and updated as needed to reflect
1008 changes in the law, rules, and best practices. The required
1009 training must cover, at a minimum, the following topics:

1010 1. State law and rules relating to assisted living
1011 facilities.

1012 2. Residents' rights and procedures for identifying and
1013 reporting abuse, neglect, and exploitation.

1014 3. Special needs of elderly persons, persons who have
1015 mental illness, and persons who have developmental disabilities

586-02377-12

20122050c1

1016 and how to meet those needs.

1017 4. Nutrition and food service, including acceptable
1018 sanitation practices for preparing, storing, and serving food.

1019 5. Medication management, recordkeeping, and proper
1020 techniques for assisting residents who self-administer
1021 medication.

1022 6. Firesafety requirements, including procedures for fire
1023 evacuation drills and other emergency procedures.

1024 7. Care of persons who have Alzheimer's disease and related
1025 disorders.

1026 8. Elopement prevention.

1027 9. Aggression and behavior management, deescalation
1028 techniques, and proper protocols and procedures of the Baker Act
1029 as provided in part I of chapter 394.

1030 10. Do not resuscitate orders.

1031 11. Infection control.

1032 12. Admission, continuing residency, and best practices in
1033 the industry.

1034 13. Phases of care and interacting with residents.

1035
1036 The department, in conjunction with the Department of Children
1037 and Family Services and stakeholders, shall also develop a
1038 supplemental course consisting of topics related to extended
1039 congregate care, limited mental health, and business operations,
1040 including, but not limited to, human resources, financial
1041 management, and supervision of staff, which must completed by an
1042 applicant for licensure as an assisted living facility
1043 administrator.

1044 (c) The department, in conjunction with the Department of

586-02377-12

20122050c1

1045 Children and Family Services and stakeholders, shall establish a
1046 standardized core training curriculum for staff members of an
1047 assisted living facility who provide regular or direct care to
1048 residents. This training curriculum must be offered in English
1049 and Spanish, reviewed annually, and updated as needed to reflect
1050 changes in the law, rules, and best practices. The training
1051 curriculum must cover, at a minimum, the following topics:

- 1052 1. The reporting of major incidents.
- 1053 2. The reporting of adverse incidents.
- 1054 3. Emergency procedures, including chain-of-command and
1055 staff roles relating to emergency evacuation.
- 1056 4. Residents' rights in an assisted living facility.
- 1057 5. The recognition and reporting of resident abuse,
1058 neglect, and exploitation.
- 1059 6. Resident behavior and needs.
- 1060 7. Assistance with the activities of daily living.
- 1061 8. Infection control.
- 1062 9. Aggression and behavior management and deescalation
1063 techniques.

1064 (d) The department, in conjunction with the agency and
1065 stakeholders, shall create two competency tests, one for
1066 applicants for licensure as an assisted living facility
1067 administrator and one for staff members of an assisted living
1068 facility who provide regular or direct care to residents, which
1069 test the individual's comprehension of the training required in
1070 paragraphs (b) and (c). The competency tests must be reviewed
1071 annually and updated as needed to reflect changes in the law,
1072 rules, and best practices. The competency tests must be offered
1073 in English and Spanish and may be made available through testing

586-02377-12

20122050c1

1074 centers.

1075 (e) The department, in conjunction with the Department of
1076 Children and Family Services and stakeholders, shall develop a
1077 comprehensive, standardized training curriculum and competency
1078 test to satisfy the requirements for mental health training in
1079 subsections (2) and (3). The curriculum and test must be
1080 reviewed annually and updated as needed to reflect changes in
1081 the law, rules, and best practices. The competency test must be
1082 offered in English and Spanish and may be made available online
1083 or through testing centers.

1084 (f) The department, in conjunction with the Department of
1085 Children and Family Services and stakeholders, shall establish
1086 curricula for continuing education for administrators and staff
1087 members of an assisted living facility. Continuing education
1088 shall include topics similar to that of the core training
1089 required for staff members and applicants for licensure as
1090 assisted living facility administrators. Required continuing
1091 education must, at a minimum, cover the following topics:

- 1092 1. Elopement prevention;
- 1093 2. Deescalation techniques; and
- 1094 3. Phases of care and interacting with residents.

1095 (g) The department shall ensure that all continuing
1096 education curricula include a test upon completion of the
1097 training which demonstrates comprehension of the training. The
1098 training and the test must be offered in English and Spanish,
1099 reviewed annually, and updated as needed to reflect changes in
1100 the law, rules, and best practices. Continuing education and the
1101 required test may be offered through online courses and any fees
1102 associated to the online service shall be borne by the

586-02377-12

20122050c1

1103 participant or the participant's employer.

1104 (h) The department shall adopt rules related to training
1105 requirements, competency tests, necessary procedures, and
1106 training and testing fees.

1107 (2) ADMINISTRATORS AND APPLICANTS FOR LICENSURE AS AN
1108 ASSISTED LIVING FACILITY ADMINISTRATOR.—

1109 (a) An applicant for licensure as an assisted living
1110 facility administrator shall complete a minimum of 40 hours of
1111 core training that covers the required topics provided for in
1112 paragraph (1) (b).

1113 (b) In addition to the required 40 hours of core training,
1114 each applicant must complete a minimum of 10 hours of
1115 supplemental training related to extended congregate care,
1116 limited mental health, and business operations, including, but
1117 not limited to, human resources, financial management, and
1118 supervision of staff.

1119 (c) An applicant shall take a competency test that assesses
1120 the applicant's knowledge and comprehension of the required
1121 training provided for in paragraphs (a) and (b). A minimum score
1122 of 80 is required to show successful completion of the training
1123 requirements of this subsection. The applicant taking the test
1124 is responsible for any testing fees.

1125 (d) If an applicant for licensure as an assisted living
1126 facility administrator fails any competency test, the individual
1127 must wait at least 10 days before retaking the test. If the
1128 applicant fails a competency test three times, the individual
1129 must retake the applicable training before retaking the test.

1130 (e) A licensed administrator shall receive at least 1 hour
1131 of inservice training regarding the facility's policies and

586-02377-12

20122050c1

1132 procedures related to resident elopement response within 30 days
1133 after employment at a facility. Each administrator must be
1134 provided a copy of the facility's policies and procedures
1135 related to resident elopement response and shall demonstrate an
1136 understanding and competency in the implementation of these
1137 policies and procedures.

1138 (f) Each licensed administrator of an assisted living
1139 facility that has a limited mental health license must complete
1140 a minimum of 8 hours of mental health training and pass a
1141 competency test related to the training within 30 days after
1142 employment at the facility. A minimum score of 80 is required to
1143 show successful passage of the mental health competency test. An
1144 administrator who does not pass the test within 6 months after
1145 completing the mental health training is ineligible to be an
1146 administrator of an assisted living facility that has a limited
1147 mental health license until the administrator achieves a passing
1148 score. The competency test may be made available online or
1149 through testing centers and must be offered in English and
1150 Spanish.

1151 (g) A licensed administrator of an assisted living facility
1152 that has an extended congregate care license must complete a
1153 minimum of 6 hours of extended congregate care training within
1154 30 days after employment.

1155 (h) A licensed administrator of an assisted living facility
1156 that has a limited nursing services license must complete a
1157 minimum of 4 hours of training related to the special needs and
1158 care of those persons who require limited nursing services
1159 within 30 days after employment.

1160 (i) A licensed administrator must participate in continuing

586-02377-12

20122050c1

1161 education for a minimum of 18 contact hours every 2 years and
1162 pass the corresponding test upon completion of the continuing
1163 education course with a minimum score of 80. Completion of all
1164 continuing education and a passing score on any corresponding
1165 tests must be achieved before license renewal. Continuing
1166 education may be offered through online courses, and any fees
1167 associated to the online service shall be borne by the
1168 participant or the participant's employer.

1169 (3) STAFF TRAINING.—

1170 (a) Each staff member of an assisted living facility shall
1171 receive at least 1 hour of inservice training regarding the
1172 facility's policies and procedures related to resident elopement
1173 response within 30 days after employment. Each staff member must
1174 be provided a copy of the facility's policies and procedures
1175 related to resident elopement response and shall demonstrate an
1176 understanding and competency in the implementation of these
1177 policies and procedures.

1178 (b) Each staff member of an assisted living facility who is
1179 hired on or after July 1, 2012, and who provides regular or
1180 direct care to residents, shall complete a minimum of 20 hours
1181 of core training within 90 days after employment at a facility.
1182 The department may exempt nurses, certified nursing assistants,
1183 or home health aides who can demonstrate completion of training
1184 that is substantially similar to that of the core training
1185 required in this paragraph.

1186 (c) Each staff member of an assisted living facility who is
1187 hired on or after July 1, 2012, and who provides regular or
1188 direct care to residents, must take a competency test within 90
1189 days after employment at a facility which assesses the

586-02377-12

20122050c1

1190 individual's knowledge and comprehension of the required
1191 training provided for in paragraph (b). A minimum score of 70 on
1192 the competency test is required to show successful completion of
1193 the training requirements. If a staff member fails the
1194 competency test, the individual must wait at least 10 days
1195 before retaking the test. If a staff member fails the competency
1196 test three times, the individual must retake the initial core
1197 training before retaking the test. If a staff member does not
1198 pass the competency test within 1 year after employment, the
1199 individual may not provide regular or direct care to residents
1200 until the individual successfully passes the test. The
1201 individual taking the test is responsible for any testing fees.

1202 (d) A staff member of an assisted living facility that has
1203 a limited mental health license who provides regular or direct
1204 care to residents must complete a minimum of 8 hours of mental
1205 health training within 30 days after employment. Within 30 days
1206 after this training, the staff member must pass a competency
1207 test related to the mental health training with a minimum score
1208 of 70. If a staff member does not pass the competency test, the
1209 individual may not provide regular or direct care to residents
1210 until the individual successfully passes the test. The
1211 competency test may be made available online or through testing
1212 centers and must be offered in English and Spanish.

1213 (e) A staff member of an assisted living facility who
1214 prepares or serves food must receive a minimum of 1 hour of
1215 inservice training in safe food handling practices within 30
1216 days after employment.

1217 (f) A staff member of an assisted living facility who
1218 manages medications and assists with the self-administration of

586-02377-12

20122050c1

1219 medications under s. 429.256 must complete, within 30 days after
1220 employment, a minimum of 4 additional hours of training provided
1221 by a registered nurse, licensed pharmacist, or department staff.
1222 The department shall establish by rule the minimum requirements
1223 for this training, including continuing education requirements.

1224 (g) Other staff members of an assisted living facility
1225 shall participate in training relevant to their job duties as
1226 specified by rule of the department.

1227 (h) If the department or the agency determines that there
1228 are problems in a facility which could be reduced through
1229 specific staff training beyond that already required under this
1230 subsection, the department or the agency may require and
1231 provide, or cause to be provided, additional training of any
1232 staff member in the facility.

1233 (i) Each staff member of an assisted living facility who
1234 provides regular or direct care to residents must participate in
1235 continuing education for a minimum of 10 contact hours every 2
1236 years and pass the corresponding test upon completion of the
1237 continuing education course with a minimum score of 70. If an
1238 individual does not complete all required continuing education
1239 and pass any corresponding tests within the requisite time
1240 period, the individual may not provide regular or direct care to
1241 residents until the individual does so. Continuing education may
1242 be offered through online courses and any fees associated to the
1243 online service shall be borne by the participant or the
1244 participant's employer.

1245 Section 15. Section 429.522, Florida Statutes, is created
1246 to read:

1247 429.522 Training providers; certification.-

586-02377-12

20122050c1

- 1248 (1) DEFINITIONS.—As used in this section, the term:
- 1249 (a) "Trainer certification" means a professional credential
1250 awarded to individuals demonstrating competency in the assisted
1251 living facility practice area by a department-approved third-
1252 party credentialing entity.
- 1253 (b) "Competency" means the minimum knowledge, skills, and
1254 abilities necessary to perform work responsibilities.
- 1255 (c) "Curriculum" means the minimum statewide training
1256 content that is based upon the competencies and is made
1257 available to persons providing services at an assisted living
1258 facility.
- 1259 (d) "Third-party credentialing entity" means a department-
1260 approved nonprofit organization that has met nationally
1261 recognized standards for developing and administering
1262 professional certification programs.
- 1263 (2) THIRD-PARTY CREDENTIALING ENTITIES.—The department
1264 shall approve and provide oversight for one or more third-party
1265 credentialing entities for the purpose of developing and
1266 administering trainer certification programs for persons
1267 providing training to applicants for licensure as an assisted
1268 living facility administrator, to administrators of an assisted
1269 living facility, and to staff members of an assisted living
1270 facility. A third-party credentialing entity shall request this
1271 approval in writing from the department. In order to obtain
1272 approval, the third-party credentialing entity shall:
- 1273 (a) Establish professional requirements and standards that
1274 applicants must achieve in order to obtain trainer certification
1275 and to maintain such certification. At a minimum, an applicant
1276 shall meet one of the following requirements:

586-02377-12

20122050c1

- 1277 1. Provide proof of completion of a 4-year baccalaureate
1278 degree from an accredited college or university and have worked
1279 in a management position in an assisted living facility for at
1280 least 3 years after obtaining core trainer certification;
- 1281 2. Have worked in a management position in an assisted
1282 living facility for at least 5 years after obtaining core
1283 trainer certification and have at least 1 year of teaching
1284 experience as an educator or staff trainer for persons who work
1285 in assisted living facilities or other long-term care settings;
- 1286 3. Have been previously certified as a core trainer for the
1287 department;
- 1288 4. Have a minimum of 5 years of employment with the agency,
1289 or the former Department of Health and Rehabilitative Services,
1290 as a surveyor of assisted living facilities;
- 1291 5. Have a minimum of 5 years of employment in a
1292 professional position in the agency's assisted living unit;
- 1293 6. Have a minimum of 5 years of employment as an educator
1294 or staff trainer for persons working in an assisted living
1295 facility or other long-term care setting;
- 1296 7. Have a minimum of 5 years of employment as a core
1297 trainer for an assisted living facility, which employment was
1298 not directly associated with the department; or
- 1299 8. Provide proof of at least a 4-year baccalaureate degree
1300 from an accredited college or university in the areas of health
1301 care, gerontology, social work, education, or human services,
1302 and a minimum of 4 years of experience as an educator or staff
1303 trainer for persons who work in an assisted living facility or
1304 other long-term care setting after receiving core trainer
1305 certification.

586-02377-12

20122050c1

1306 (b) Apply competencies according to the department's
1307 standards as provided in s. 429.521.

1308 (c) Maintain a professional code of ethics and establish a
1309 disciplinary process and a decertification process that applies
1310 to all persons holding trainer certification.

1311 (d) Maintain a database, accessible to the public, of all
1312 persons who have trainer certification, including any history of
1313 violations.

1314 (e) Require annual continuing education for persons who
1315 have trainer certification.

1316 (f) Administer a continuing education provider program to
1317 ensure that only qualified providers offer continuing education
1318 opportunities for certificateholders.

1319 (3) TRAINER CERTIFICATION.—Effective July 1, 2013, an
1320 individual seeking trainer certification must provide the third-
1321 party credentialing entity with, at a minimum, proof of:

1322 (a) Completion of the minimum core training requirements in
1323 s. 429.521(2) and successful passage of the corresponding
1324 competency tests with a minimum score of 80;

1325 (b) Compliance with the continuing education requirements
1326 in s. 429.521(2); and

1327 (c) Compliance with the professional requirements and
1328 standards required in paragraph (2) (a).

1329 (4) ADOPTION OF RULES.—The department shall adopt rules
1330 necessary to administer this section.

1331 Section 16. Section 429.55, Florida Statutes, is created to
1332 read:

1333 429.55 Electronic monitoring of resident's room.—

1334 (1) DEFINITIONS.—As used in this section, the term:

586-02377-12

20122050c1

1335 (a) "Authorized electronic monitoring" means the placement
1336 of an electronic monitoring device in the room of a resident of
1337 an assisted living facility and the making of tapes or
1338 recordings through use of the device after making a request to
1339 the facility and obtaining all necessary consent to allow
1340 electronic monitoring.

1341 (b) "Electronic monitoring device" means video surveillance
1342 cameras or audio devices installed in the room of a resident
1343 which are designed to acquire communications or other sounds
1344 occurring in the room. The term does not include an electronic,
1345 mechanical, or other device that is specifically used for the
1346 nonconsensual interception of wire or electronic communications.

1347 (2) COVERT USE OF ELECTRONIC MONITORING DEVICE.—For
1348 purposes of this section, the placement and use of an electronic
1349 monitoring device in the room of a resident is considered to be
1350 covert if:

1351 (a) The placement and use of the device is not open and
1352 obvious; and

1353 (b) The facility and the agency are not informed about the
1354 device by the resident, by a person who placed the device in the
1355 room, or by a person who is using the device.

1356
1357 The agency and the facility are not civilly liable in connection
1358 with the covert placement or use of an electronic monitoring
1359 device in the room of the resident.

1360 (3) REQUIRED FORM ON ADMISSION.—The agency shall prescribe
1361 by rule a form that must be completed and signed upon a
1362 resident's admission to a facility by or on behalf of the
1363 resident. The form must state:

586-02377-12

20122050c1

1364 (a) That a person who places an electronic monitoring
1365 device in the room of a resident or who uses or discloses a tape
1366 or other recording made by the device may be civilly liable for
1367 any unlawful violation of the privacy rights of another;

1368 (b) That a person who covertly places an electronic
1369 monitoring device in the room of a resident or who consents to
1370 or acquiesces in the covert placement of the device in the room
1371 of a resident has waived any privacy right the person may have
1372 had in connection with images or sounds that may be acquired by
1373 the device;

1374 (c) That a resident or the resident's guardian or legal
1375 representative is entitled to conduct authorized electronic
1376 monitoring under this section and that, if the facility refuses
1377 to permit the electronic monitoring or fails to make reasonable
1378 physical accommodations for the authorized electronic
1379 monitoring, the person should contact the agency. The form must
1380 also provide the agency's contact information;

1381 (d) The basic procedures that must be followed in order to
1382 request authorized electronic monitoring;

1383 (e) That the electronic monitoring device and all
1384 installation and maintenance costs must be paid for by the
1385 resident or the resident's guardian or legal representative;

1386 (f) The legal requirement to report abuse or neglect when
1387 electronic monitoring is being conducted; and

1388 (g) Any other information regarding covert or authorized
1389 electronic monitoring which the agency considers advisable to
1390 include on the form.

1391 (4) AUTHORIZATION AND CONSENT.—

1392 (a) If a resident has the capacity to request electronic

586-02377-12

20122050c1

1393 monitoring and has not been judicially declared to lack the
1394 required capacity, only the resident may request authorized
1395 electronic monitoring under this section, notwithstanding the
1396 terms of any durable power of attorney or similar instrument.

1397 (b) If a resident has been judicially declared to lack the
1398 capacity required for taking an action, such as requesting
1399 electronic monitoring, only the guardian of the resident may
1400 request electronic monitoring under this section.

1401 (c) If a resident does not have capacity to request
1402 electronic monitoring but has not been judicially declared to
1403 lack the required capacity, only the legal representative of the
1404 resident may request electronic monitoring under this section.

1405 (d) A resident or the guardian or legal representative of a
1406 resident who wishes to conduct authorized electronic monitoring
1407 must make the request to the facility on a form prescribed by
1408 the agency.

1409 (e) The form prescribed by the agency must require the
1410 resident or the resident's guardian or legal representative to:

1411 1. Release the facility from any civil liability for a
1412 violation of the resident's privacy rights in connection with
1413 the use of the electronic monitoring device;

1414 2. If the electronic monitoring device is a video
1415 surveillance camera, choose whether the camera will always be
1416 unobstructed or whether the camera should be obstructed in
1417 specified circumstances in order to protect the dignity of the
1418 resident; and

1419 3. Obtain the consent of the other residents in the room,
1420 using a form prescribed for this purpose by the agency, if the
1421 resident resides in a multiperson room.

586-02377-12

20122050c1

1422 (f) Consent under subparagraph (e)3. may be given only by:

1423 1. The other resident or residents in the room;

1424 2. The guardian of the other resident in the room, if the
1425 person has been judicially declared to lack the required
1426 capacity to consent; or

1427 3. The legal representative of the other resident in the
1428 room, if the person does not have capacity to sign the form but
1429 has not been judicially declared to lack the required capacity
1430 to consent.

1431 (g) The form prescribed by the agency under subparagraph
1432 (e)3. must condition the consent of another resident in the room
1433 on the other resident also releasing the facility from any civil
1434 liability for a violation of the person's privacy rights in
1435 connection with the use of the electronic monitoring device.

1436 (h) Another resident in the room may:

1437 1. If the proposed electronic monitoring device is a video
1438 surveillance camera, condition consent on the camera being
1439 pointed away from the consenting resident; and

1440 2. Condition consent on the use of an audio electronic
1441 monitoring device being limited or prohibited.

1442 (i) If authorized electronic monitoring is being conducted
1443 in the room of a resident and another resident is moved into the
1444 room who has not yet consented to the electronic monitoring,
1445 authorized electronic monitoring must cease until the new
1446 resident has consented in accordance with this subsection.

1447 (j) Authorized electronic monitoring may not commence until
1448 all request and consent forms required by this subsection have
1449 been completed and returned to the facility, and the monitoring
1450 must be conducted in accordance with any limitation placed on

586-02377-12

20122050c1

1451 the monitoring as a condition of the consent given by or on
1452 behalf of another resident in the room.

1453 (k) The agency may include other information that the
1454 agency considers to be appropriate on any of the forms that the
1455 agency is required to prescribe under this subsection.

1456 (l) The agency shall adopt rules to administer this
1457 subsection.

1458 (5) AUTHORIZED ELECTRONIC MONITORING; GENERAL PROVISIONS.-

1459 (a) A facility shall allow a resident or the resident's
1460 guardian or legal representative to monitor the room of the
1461 resident through the use of electronic monitoring devices.

1462 (b) The facility shall require a resident who conducts
1463 authorized electronic monitoring or the resident's guardian or
1464 legal representative to post and maintain a conspicuous notice
1465 at the entrance of the resident's room which states that the
1466 room is being monitored by an electronic monitoring device.

1467 (c) Authorized electronic monitoring conducted under this
1468 section is not compulsory and may be conducted only at the
1469 request of the resident or the resident's guardian or legal
1470 representative.

1471 (d) A facility may not refuse to admit an individual to
1472 residency in the facility and may not remove a resident from the
1473 facility because of a request to conduct authorized electronic
1474 monitoring.

1475 (e) A facility shall make reasonable physical
1476 accommodations for authorized electronic monitoring, including
1477 providing:

1478 1. A reasonably secure place to mount the video
1479 surveillance camera or other electronic monitoring device; and

586-02377-12

20122050c1

1480 2. Access to power sources for the video surveillance
1481 camera or other electronic monitoring device.

1482 (f) A facility may require an electronic monitoring device
1483 to be installed in a manner that is safe for residents,
1484 employees, or visitors who may be moving about a room.

1485 (g) If authorized electronic monitoring is conducted, the
1486 facility may require the resident or the resident's guardian or
1487 legal representative to conduct the electronic monitoring in
1488 plain view.

1489 (h) A facility may place a resident in a different room in
1490 order to accommodate a request to conduct authorized electronic
1491 monitoring.

1492 (6) REPORTING ABUSE AND NEGLECT.—A person shall report
1493 abuse to the central abuse hotline of the Department of Children
1494 and Family Services pursuant to s. 415.103 based on the person's
1495 viewing of or listening to a tape or recording by an electronic
1496 monitoring device if the incident of abuse is acquired on the
1497 tape or recording. A person shall report neglect to the central
1498 abuse hotline pursuant to s. 415.103 based on the person's
1499 viewing of or listening to a tape or recording by an electronic
1500 monitoring device if it is clear from viewing or listening to
1501 the tape or recording that neglect has occurred. If a person
1502 reports abuse or neglect to the central abuse hotline pursuant
1503 to this subsection, the person shall also send to the agency a
1504 copy of the tape or recording which indicates the reported abuse
1505 or neglect.

1506 (7) USE OF TAPE OR RECORDING.—

1507 (a) Subject to applicable rules of evidence and procedure
1508 and the requirements of this subsection, a tape or recording

586-02377-12

20122050c1

1509 created through the use of covert or authorized electronic
1510 monitoring may be admitted into evidence in a civil or criminal
1511 court action or administrative proceeding.

1512 (b) A court or administrative agency may not admit into
1513 evidence a tape or recording created through the use of covert
1514 or authorized electronic monitoring or take or authorize action
1515 based on the tape or recording unless:

1516 1. The tape or recording shows the time and date that the
1517 events acquired on the tape or recording occurred;

1518 2. The contents of the tape or recording have not been
1519 edited or artificially enhanced; and

1520 3. If the contents of the tape or recording have been
1521 transferred from the original format to another technological
1522 format, the transfer was done by a qualified professional and
1523 the contents of the tape or recording were not altered.

1524 (c) A person who sends more than one tape or recording to
1525 the agency shall identify for the agency each tape or recording
1526 on which the person believes that an incident of abuse or
1527 evidence of neglect may be found.

1528 (8) REQUIRED NOTICE.—Each facility shall post a notice at
1529 the entrance to the facility stating that the rooms of some
1530 residents are monitored electronically by or on behalf of the
1531 residents and that the monitoring is not necessarily open and
1532 obvious.

1533 (9) ENFORCEMENT.—The agency may impose appropriate
1534 administrative sanctions under this part against an
1535 administrator of a facility who knowingly:

1536 (a) Refuses to permit a resident or the resident's guardian
1537 or legal representative to conduct authorized electronic

586-02377-12

20122050c1

1538 monitoring;

1539 (b) Refuses to admit an individual to residency or allows
1540 the removal of a resident from the facility because of a request
1541 to conduct authorized electronic monitoring; or

1542 (c) Violates another provision of this section.

1543 (10) RULES.—The agency shall adopt rules as necessary to
1544 administer this section.

1545 Section 17. This act shall take effect July 1, 2012.