

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

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1 A bill to be entitled
2 An act relating to assisted living facilities;
3 amending s. 394.4574, F.S.; providing that Medicaid
4 prepaid behavioral health plans are responsible for
5 enrolled mental health residents; providing that
6 managing entities under contract with the Department
7 of Children and Families are responsible for mental
8 health residents who are not enrolled with a Medicaid
9 prepaid behavioral health plan; deleting a provision
10 to conform to changes made by the act; requiring that
11 the community living support plan be completed and
12 provided to the administrator of a facility upon the
13 mental health resident's admission; requiring the
14 community living support plan to be updated when there
15 is a significant change to the mental health
16 resident's behavioral health; requiring the case
17 manager assigned to a mental health resident of an
18 assisted living facility that holds a limited mental
19 health license to keep a record of the date and time
20 of face-to-face interactions with the resident and to
21 make the record available to the responsible entity
22 for inspection; requiring that the record be
23 maintained for a specified time; requiring the
24 responsible entity to ensure that there is adequate
25 and consistent monitoring and enforcement of community
26 living support plans and cooperative agreements and
27 that concerns are reported to the appropriate
28 regulatory oversight organization under certain
29 circumstances; amending s. 400.0074, F.S.; providing

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30 that an administrative assessment conducted by a local
31 council be comprehensive in nature and focus on
32 factors affecting the rights, health, safety, and
33 welfare of the residents of a nursing home; requiring
34 a local council to conduct an exit consultation with
35 the facility administrator or administrator designee
36 to discuss issues and concerns in areas affecting
37 rights, health, safety, and welfare of residents and
38 make recommendations for improvement; amending s.
39 400.0078, F.S.; requiring that residents of long-term
40 care facilities be informed that retaliatory action
41 cannot be taken against a resident for presenting
42 grievances or for exercising any other resident right;
43 amending s. 429.07, F.S.; providing that an extended
44 congregate care license is issued to certain
45 facilities that have been licensed as assisted living
46 facilities under certain circumstances; providing the
47 purpose of an extended congregate care license;
48 providing that the initial extended congregate care
49 license of an assisted living facility is provisional
50 under certain circumstances; requiring the licensee to
51 notify the Agency for Health Care Administration
52 whenever it accepts a resident who qualifies for
53 extended congregate care services; requiring the
54 agency to inspect the facility for compliance with the
55 requirements of an extended congregate care license;
56 authorizing the agency to waive one of the required
57 yearly monitoring visits under certain circumstances;
58 authorizing the agency to deny or revoke a facility's

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59 extended congregate care license for certain reasons
60 or on certain grounds; requiring a registered nurse
61 representing the agency to visit the facility at least
62 annually, rather than twice a year, to monitor
63 residents who are receiving limited nursing services;
64 providing that the agency's monitoring visits may be
65 in conjunction with other agency inspections;
66 authorizing the agency to waive one of the required
67 yearly monitoring visits for certain facilities;
68 amending s. 429.075, F.S.; requiring an assisted
69 living facility that serves one or more mental health
70 residents to obtain a limited mental health license;
71 amending s. 429.14, F.S.; revising the actions in
72 which the agency may deny, revoke, or suspend the
73 license of an assisted living facility and impose an
74 administrative fine; revising the criteria upon which
75 the agency must deny or revoke the license of an
76 assisted living facility; requiring the agency to
77 impose an immediate moratorium on the license of an
78 assisted living facility under certain circumstances;
79 deleting a provision requiring the agency to provide a
80 list of facilities with denied, suspended, or revoked
81 licenses to the Department of Business and
82 Professional Regulation; exempting a facility from the
83 45-day notice requirement if it is required to
84 relocate some or all of its residents; amending s.
85 429.178, F.S.; conforming cross-references; amending
86 s. 429.19, F.S.; revising the amounts and uses of
87 administrative fines; requiring the agency to levy a

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88 fine for violations that are corrected before an
89 inspection if noncompliance occurred within a
90 specified period of time; deleting factors that the
91 agency is required to consider to determine penalties
92 and fines; amending s. 429.28, F.S.; requiring that
93 residents of facilities be informed that the identity
94 of the resident and complainant in a complaint made to
95 the State Long-Term Care Ombudsman Program is
96 confidential and that retaliatory action cannot be
97 taken against a resident for presenting grievances or
98 for exercising any other resident right; providing
99 that a facility that terminates an individual's
100 residency is fined if good cause is not shown in
101 court; amending s. 429.34, F.S.; requiring certain
102 persons to report elder abuse in assisted living
103 facilities; requiring the agency to regularly inspect
104 every licensed assisted living facility; requiring the
105 agency to conduct more frequent inspections under
106 certain circumstances; requiring the licensee to pay a
107 fee for the cost of additional inspections; requiring
108 the agency to adjust the fee; amending s. 429.52,
109 F.S.; requiring each newly hired employee of an
110 assisted living facility to attend a preservice
111 orientation provided by the assisted living facility;
112 requiring the employee and administrator to sign an
113 affidavit upon completion of the preservice
114 orientation; requiring the assisted living facility to
115 maintain the signed affidavit in each employee's work
116 file; conforming a cross-reference; requiring the

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117 Agency for Health Care Administration to study the
 118 reliability of facility surveys and submit to the
 119 Governor and the Legislature its findings and
 120 recommendations; requiring the agency to propose a
 121 rating system of assisted living facilities for
 122 consumers and create content for the agency's website
 123 that makes available to consumers information
 124 regarding assisted living facilities; providing
 125 criteria for the content; providing an effective date.
 126

127 Be It Enacted by the Legislature of the State of Florida:
 128

129 Section 1. Section 394.4574, Florida Statutes, is amended
 130 to read:

131 394.4574 ~~Department~~ Responsibilities for coordination of
 132 services for a mental health resident who resides in an assisted
 133 living facility that holds a limited mental health license.-

134 (1) As used in this section, the term "mental health
 135 resident" ~~"mental health resident," for purposes of this~~
 136 ~~section,~~ means an individual who receives social security
 137 disability income due to a mental disorder as determined by the
 138 Social Security Administration or receives supplemental security
 139 income due to a mental disorder as determined by the Social
 140 Security Administration and receives optional state
 141 supplementation.

142 (2) Medicaid prepaid behavioral health plans are
 143 responsible for enrolled mental health residents, and managing
 144 entities under contract with the department are responsible for
 145 mental health residents who are not enrolled with a Medicaid

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146 prepaid behavioral health plan. Each responsible entity shall

147 ~~The department must~~ ensure that:

148 (a) A mental health resident has been assessed by a
149 psychiatrist, clinical psychologist, clinical social worker, or
150 psychiatric nurse, or an individual who is supervised by one of
151 these professionals, and determined to be appropriate to reside
152 in an assisted living facility. The documentation must be
153 provided to the administrator of the facility within 30 days
154 after the mental health resident has been admitted to the
155 facility. An evaluation completed upon discharge from a state
156 mental hospital meets the requirements of this subsection
157 related to appropriateness for placement as a mental health
158 resident if it was completed within 90 days before ~~prior to~~
159 admission to the facility.

160 (b) A cooperative agreement, as required in s. 429.075, is
161 developed between the mental health care services provider that
162 serves a mental health resident and the administrator of the
163 assisted living facility with a limited mental health license in
164 which the mental health resident is living. ~~Any entity that~~
165 ~~provides Medicaid prepaid health plan services shall ensure the~~
166 ~~appropriate coordination of health care services with an~~
167 ~~assisted living facility in cases where a Medicaid recipient is~~
168 ~~both a member of the entity's prepaid health plan and a resident~~
169 ~~of the assisted living facility. If the entity is at risk for~~
170 ~~Medicaid targeted case management and behavioral health~~
171 ~~services, the entity shall inform the assisted living facility~~
172 ~~of the procedures to follow should an emergent condition arise.~~

173 (c) The community living support plan, as defined in s.
174 429.02, has been prepared by a mental health resident and a

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175 mental health case manager of that resident in consultation with
176 the administrator of the facility or the administrator's
177 designee. The plan must be completed and provided to the
178 administrator of the assisted living facility with a limited
179 mental health license in which the mental health resident lives
180 upon the resident's admission. The support plan and the
181 agreement may be in one document.

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

185 (e) The mental health services provider assigns a case
186 manager to each mental health resident for whom the entity is
187 responsible ~~who lives in an assisted living facility with a~~
188 ~~limited mental health license~~. The case manager is responsible
189 for coordinating the development of and implementation of the
190 community living support plan defined in s. 429.02. The plan
191 must be updated at least annually, or when there is a
192 significant change to the resident's behavioral health status,
193 such as an inpatient admission or a change in behavioral status,
194 medications, level of service, or residence. Each case manager
195 shall keep a record of the date and time of any face-to-face
196 interaction with the resident and make the record available to
197 the responsible entity for inspection. The record must be
198 retained for at least 2 years after the date of the most recent
199 interaction.

200 (f) Adequate and consistent monitoring and enforcement of
201 community living support plans and cooperative agreements are
202 conducted by the resident's case manager.

203 (g) Concerns are reported to the appropriate regulatory

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204 oversight organization if a regulated provider fails to deliver
205 appropriate services or otherwise acts in a manner that has the
206 potential to result in harm to the resident.

207 (3) The Secretary of Children and Family Services, in
208 consultation with the Agency for Health Care Administration,
209 shall ~~annually~~ require each district administrator to develop,
210 with community input, a detailed annual plan that demonstrates
211 ~~detailed plans that demonstrate~~ how the district will ensure the
212 provision of state-funded mental health and substance abuse
213 treatment services to residents of assisted living facilities
214 that hold a limited mental health license. These plans must be
215 consistent with the substance abuse and mental health district
216 plan developed pursuant to s. 394.75 and must address case
217 management services; access to consumer-operated drop-in
218 centers; access to services during evenings, weekends, and
219 holidays; supervision of the clinical needs of the residents;
220 and access to emergency psychiatric care.

221 Section 2. Subsection (1) of section 400.0074, Florida
222 Statutes, is amended, and paragraph (h) is added to subsection
223 (2) of that section, to read:

224 400.0074 Local ombudsman council onsite administrative
225 assessments.-

226 (1) In addition to any specific investigation conducted
227 pursuant to a complaint, the local council shall conduct, at
228 least annually, an onsite administrative assessment of each
229 nursing home, assisted living facility, and adult family-care
230 home within its jurisdiction. This administrative assessment
231 must be comprehensive in nature and must ~~shall~~ focus on factors
232 affecting the rights, health, safety, and welfare of the

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233 residents. Each local council is encouraged to conduct a similar
234 onsite administrative assessment of each additional long-term
235 care facility within its jurisdiction.

236 (2) An onsite administrative assessment conducted by a
237 local council shall be subject to the following conditions:

238 (h) The local council shall conduct an exit consultation
239 with the facility administrator or administrator designee to
240 discuss issues and concerns in areas affecting the rights,
241 health, safety, and welfare of the residents and make
242 recommendations for improvement, if any.

243 Section 3. Subsection (2) of section 400.0078, Florida
244 Statutes, is amended to read:

245 400.0078 Citizen access to State Long-Term Care Ombudsman
246 Program services.—

247 ~~(2) Every resident or representative of a resident shall~~
248 ~~receive,~~ Upon admission to a long-term care facility, each
249 resident or representative of a resident must receive
250 information regarding the purpose of the State Long-Term Care
251 Ombudsman Program, the statewide toll-free telephone number for
252 receiving complaints, information that retaliatory action cannot
253 be taken against a resident for presenting grievances or for
254 exercising any other resident right, and other relevant
255 information regarding how to contact the program. Residents or
256 their representatives must be furnished additional copies of
257 this information upon request.

258 Section 4. Paragraphs (b) and (c) of subsection (3) of
259 section 429.07, Florida Statutes, are amended to read:

260 429.07 License required; fee.—

261 (3) In addition to the requirements of s. 408.806, each

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262 license granted by the agency must state the type of care for
263 which the license is granted. Licenses shall be issued for one
264 or more of the following categories of care: standard, extended
265 congregate care, limited nursing services, or limited mental
266 health.

267 (b) An extended congregate care license shall be issued to
268 facilities that have been licensed as assisted living facilities
269 for 2 or more years and that provide ~~providing~~, directly or
270 through contract, services beyond those authorized in paragraph
271 (a), including services performed by persons licensed under part
272 I of chapter 464 and supportive services, as defined by rule, to
273 persons who would otherwise be disqualified from continued
274 residence in a facility licensed under this part. An extended
275 congregate care license may also be issued to those facilities
276 that have provisional extended congregate care licenses and meet
277 the requirements for licensure under subparagraph 2. The primary
278 purpose of extended congregate care services is to allow
279 residents, as they become more impaired, the option of remaining
280 in a familiar setting from which they would otherwise be
281 disqualified for continued residency. A facility licensed to
282 provide extended congregate care services may also admit an
283 individual who exceeds the admission criteria for a facility
284 with a standard license, if the individual is determined
285 appropriate for admission to the extended congregate care
286 facility.

287 1. In order for extended congregate care services to be
288 provided, the agency must first determine that all requirements
289 established in law and rule are met and must specifically
290 designate, on the facility's license, that such services may be

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291 provided and whether the designation applies to all or part of
292 the facility. Such designation may be made at the time of
293 initial licensure or relicensure, or upon request in writing by
294 a licensee under this part and part II of chapter 408. The
295 notification of approval or the denial of the request shall be
296 made in accordance with part II of chapter 408. Existing
297 facilities qualifying to provide extended congregate care
298 services must have maintained a standard license and may not
299 have been subject to administrative sanctions during the
300 previous 2 years, or since initial licensure if the facility has
301 been licensed for less than 2 years, for any of the following
302 reasons:

- 303 a. A class I or class II violation;
- 304 b. Three or more repeat or recurring class III violations
305 of identical or similar resident care standards from which a
306 pattern of noncompliance is found by the agency;
- 307 c. Three or more class III violations that were not
308 corrected in accordance with the corrective action plan approved
309 by the agency;
- 310 d. Violation of resident care standards which results in
311 requiring the facility to employ the services of a consultant
312 pharmacist or consultant dietitian;
- 313 e. Denial, suspension, or revocation of a license for
314 another facility licensed under this part in which the applicant
315 for an extended congregate care license has at least 25 percent
316 ownership interest; or
- 317 f. Imposition of a moratorium pursuant to this part or part
318 II of chapter 408 or initiation of injunctive proceedings.

319 2. If an assisted living facility has been licensed for

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320 less than 2 years but meets all other licensure requirements for
321 an extended congregate care license, it shall be issued a
322 provisional extended congregate care license for a period of 6
323 months. Within the first 3 months after the provisional license
324 is issued, the licensee shall notify the agency when it has
325 admitted an extended congregate care resident, after which an
326 unannounced inspection shall be made to determine compliance
327 with requirements of an extended congregate care license. If the
328 licensee demonstrates compliance with all of the requirements of
329 an extended congregate care license during the inspection, the
330 licensee shall be issued an extended congregate care license. In
331 addition to sanctions authorized under this part, if violations
332 are found during the inspection and the licensee fails to
333 demonstrate compliance with all assisted living requirements
334 during a followup inspection, the licensee shall immediately
335 suspend extended congregate care services, and the provisional
336 extended congregate care license expires.

337 3.2. A facility that is licensed to provide extended
338 congregate care services shall maintain a written progress
339 report on each person who receives services which describes the
340 type, amount, duration, scope, and outcome of services that are
341 rendered and the general status of the resident's health. A
342 registered nurse, or appropriate designee, representing the
343 agency shall visit the facility at least twice a year ~~quarterly~~
344 to monitor residents who are receiving extended congregate care
345 services and to determine if the facility is in compliance with
346 this part, part II of chapter 408, and relevant rules. One of
347 the visits may be in conjunction with the regular survey. The
348 monitoring visits may be provided through contractual

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349 arrangements with appropriate community agencies. A registered
350 nurse shall serve as part of the team that inspects the
351 facility. The agency may waive one of the required yearly
352 monitoring visits for a facility ~~that has been licensed for at~~
353 ~~least 24 months to provide extended congregate care services,~~
354 ~~if, during the inspection, the registered nurse determines that~~
355 ~~extended congregate care services are being provided~~
356 ~~appropriately, and if the facility has held an extended~~
357 ~~congregate care license during the last 24 months, has had no~~
358 ~~class I or class II violations, has had and no uncorrected class~~
359 ~~III violations, and has had no confirmed ombudsman council~~
360 ~~complaints that resulted in a citation for licensure. The agency~~
361 ~~must first consult with the long-term care ombudsman council for~~
362 ~~the area in which the facility is located to determine if any~~
363 ~~complaints have been made and substantiated about the quality of~~
364 ~~services or care. The agency may not waive one of the required~~
365 ~~yearly monitoring visits if complaints have been made and~~
366 ~~substantiated.~~

367 4.3. A facility that is licensed to provide extended
368 congregate care services must:

369 a. Demonstrate the capability to meet unanticipated
370 resident service needs.

371 b. Offer a physical environment that promotes a homelike
372 setting, provides for resident privacy, promotes resident
373 independence, and allows sufficient congregate space as defined
374 by rule.

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

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378 d. Adopt and follow policies and procedures that maximize
379 resident independence, dignity, choice, and decisionmaking to
380 permit residents to age in place, so that moves due to changes
381 in functional status are minimized or avoided.

382 e. Allow residents or, if applicable, a resident's
383 representative, designee, surrogate, guardian, or attorney in
384 fact to make a variety of personal choices, participate in
385 developing service plans, and share responsibility in
386 decisionmaking.

387 f. Implement the concept of managed risk.

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

390 h. In addition to the training mandated in s. 429.52,
391 provide specialized training as defined by rule for facility
392 staff.

393 5.4. A facility that is licensed to provide extended
394 congregate care services is exempt from the criteria for
395 continued residency set forth in rules adopted under s. 429.41.
396 A licensed facility must adopt its own requirements within
397 guidelines for continued residency set forth by rule. However,
398 the facility may not serve residents who require 24-hour nursing
399 supervision. A licensed facility that provides extended
400 congregate care services must also provide each resident with a
401 written copy of facility policies governing admission and
402 retention.

403 ~~5. The primary purpose of extended congregate care services~~
404 ~~is to allow residents, as they become more impaired, the option~~
405 ~~of remaining in a familiar setting from which they would~~
406 ~~otherwise be disqualified for continued residency. A facility~~

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407 ~~licensed to provide extended congregate care services may also~~
408 ~~admit an individual who exceeds the admission criteria for a~~
409 ~~facility with a standard license, if the individual is~~
410 ~~determined appropriate for admission to the extended congregate~~
411 ~~care facility.~~

412 6. Before the admission of an individual to a facility
413 licensed to provide extended congregate care services, the
414 individual must undergo a medical examination as provided in s.
415 429.26(4) and the facility must develop a preliminary service
416 plan for the individual.

417 7. ~~If~~ When a facility can no longer provide or arrange for
418 services in accordance with the resident's service plan and
419 needs and the facility's policy, the facility must ~~shall~~ make
420 arrangements for relocating the person in accordance with s.
421 429.28(1)(k).

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

424
425 The agency may deny or revoke a facility's extended congregate
426 care license for not meeting the standards of an extended
427 congregate care license or for any of the grounds listed in this
428 subsection.

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

432 1. In order for limited nursing services to be provided in
433 a facility licensed under this part, the agency must first
434 determine that all requirements established in law and rule are
435 met and must specifically designate, on the facility's license,

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436 that such services may be provided. Such designation may be made
437 at the time of initial licensure or licensure renewal
438 ~~relicensure~~, or upon request in writing by a licensee under this
439 part and part II of chapter 408. Notification of approval or
440 denial of such request shall be made in accordance with part II
441 of chapter 408. An existing facility that qualifies ~~facilities~~
442 ~~qualifying~~ to provide limited nursing services must ~~shall~~ have
443 maintained a standard license and may not have been subject to
444 administrative sanctions that affect the health, safety, and
445 welfare of residents for the previous 2 years or since initial
446 licensure if the facility has been licensed for less than 2
447 years.

448 2. A facility ~~Facilities~~ that is ~~are~~ licensed to provide
449 limited nursing services shall maintain a written progress
450 report on each person who receives such nursing services. The~~r~~
451 ~~which~~ report must describe ~~describes~~ the type, amount, duration,
452 scope, and outcome of services that are rendered and the general
453 status of the resident's health. A registered nurse representing
454 the agency shall visit the facility ~~such facilities~~ at least
455 annually ~~twice a year~~ to monitor residents who are receiving
456 limited nursing services and to determine if the facility is in
457 compliance with applicable provisions of this part, part II of
458 chapter 408, and related rules. The monitoring visits may be
459 provided through contractual arrangements with appropriate
460 community agencies. A registered nurse shall also serve as part
461 of the team that inspects such facility. Visits may be in
462 conjunction with other agency inspections. The agency may waive
463 one of the required yearly monitoring visits for a facility that
464 has:

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465 a. A limited nursing services license for at least 24
466 months;

467 b. No class I or class II violations and no uncorrected
468 class III violations; and

469 c. No confirmed ombudsman council complaints that resulted
470 in a citation for licensure.

471 3. A person who receives limited nursing services under
472 this part must meet the admission criteria established by the
473 agency for assisted living facilities. When a resident no longer
474 meets the admission criteria for a facility licensed under this
475 part, arrangements for relocating the person shall be made in
476 accordance with s. 429.28(1)(k), unless the facility is licensed
477 to provide extended congregate care services.

478 Section 5. Section 429.075, Florida Statutes, is amended to
479 read:

480 429.075 Limited mental health license.—An assisted living
481 facility that serves one ~~three~~ or more mental health residents
482 must obtain a limited mental health license.

483 (1) To obtain a limited mental health license, a facility
484 must hold a standard license as an assisted living facility,
485 must not have any current uncorrected ~~deficiencies or~~
486 violations, and must ensure that, within 6 months after
487 receiving a limited mental health license, the facility
488 administrator and the staff of the facility who are in direct
489 contact with mental health residents must complete training of
490 no less than 6 hours related to their duties. Such designation
491 may be made at the time of initial licensure or relicensure or
492 upon request in writing by a licensee under this part and part
493 II of chapter 408. Notification of approval or denial of such

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494 request shall be made in accordance with this part, part II of
495 chapter 408, and applicable rules. This training must ~~will~~ be
496 provided by or approved by the Department of Children and Family
497 Services.

498 (2) A facility that is ~~Facilities~~ licensed to provide
499 services to mental health residents must ~~shall~~ provide
500 appropriate supervision and staffing to provide for the health,
501 safety, and welfare of such residents.

502 (3) A facility that has a limited mental health license
503 must:

504 (a) Have a copy of each mental health resident's community
505 living support plan and the cooperative agreement with the
506 mental health care services provider. The support plan and the
507 agreement may be combined.

508 (b) Have documentation that is provided by the Department
509 of Children and Family Services that each mental health resident
510 has been assessed and determined to be able to live in the
511 community in an assisted living facility that has ~~with~~ a limited
512 mental health license.

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

517 (d) Assist the mental health resident in carrying out the
518 activities identified in the individual's community living
519 support plan.

520 (4) A facility that has ~~with~~ a limited mental health
521 license may enter into a cooperative agreement with a private
522 mental health provider. For purposes of the limited mental

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523 health license, the private mental health provider may act as
524 the case manager.

525 Section 6. Section 429.14, Florida Statutes, is amended to
526 read:

527 429.14 Administrative penalties.—

528 (1) In addition to the requirements of part II of chapter
529 408, the agency may deny, revoke, and suspend any license issued
530 under this part and impose an administrative fine in the manner
531 provided in chapter 120 against a licensee for a violation of
532 any provision of this part, part II of chapter 408, or
533 applicable rules, or for any of the following actions by a
534 licensee, for the actions of any person subject to level 2
535 background screening under s. 408.809, or for the actions of any
536 facility staff ~~employee~~:

537 (a) An intentional or negligent act seriously affecting the
538 health, safety, or welfare of a resident of the facility.

539 (b) A ~~The~~ determination by the agency that the owner lacks
540 the financial ability to provide continuing adequate care to
541 residents.

542 (c) Misappropriation or conversion of the property of a
543 resident of the facility.

544 (d) Failure to follow the criteria and procedures provided
545 under part I of chapter 394 relating to the transportation,
546 voluntary admission, and involuntary examination of a facility
547 resident.

548 (e) A citation of any of the following violations
549 ~~deficiencies~~ as specified in s. 429.19:

- 550 1. One or more cited class I violations ~~deficiencies~~.
- 551 2. Three or more cited class II violations ~~deficiencies~~.

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552 3. Five or more cited class III violations ~~deficiencies~~
553 that have been cited on a single survey and have not been
554 corrected within the times specified.

555 (f) Failure to comply with the background screening
556 standards of this part, s. 408.809(1), or chapter 435.

557 (g) Violation of a moratorium.

558 (h) Failure of the license applicant, the licensee during
559 relicensure, or a licensee that holds a provisional license to
560 meet the minimum license requirements of this part, or related
561 rules, at the time of license application or renewal.

562 (i) An intentional or negligent life-threatening act in
563 violation of the uniform firesafety standards for assisted
564 living facilities or other firesafety standards which ~~that~~
565 threatens the health, safety, or welfare of a resident of a
566 facility, as communicated to the agency by the local authority
567 having jurisdiction or the State Fire Marshal.

568 (j) Knowingly operating any unlicensed facility or
569 providing without a license any service that must be licensed
570 under this chapter or chapter 400.

571 (k) Any act constituting a ground upon which application
572 for a license may be denied.

573 (2) Upon notification by the local authority having
574 jurisdiction or by the State Fire Marshal, the agency may deny
575 or revoke the license of an assisted living facility that fails
576 to correct cited fire code violations that affect or threaten
577 the health, safety, or welfare of a resident of a facility.

578 (3) The agency may deny or revoke a license of an ~~to any~~
579 applicant or controlling interest as defined in part II of
580 chapter 408 which has or had a 25-percent or greater financial

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581 or ownership interest in any other facility that is licensed
582 under this part, or in any entity licensed by this state or
583 another state to provide health or residential care, if that
584 ~~which~~ facility or entity during the 5 years prior to the
585 application for a license closed due to financial inability to
586 operate; had a receiver appointed or a license denied,
587 suspended, or revoked; was subject to a moratorium; or had an
588 injunctive proceeding initiated against it.

589 (4) The agency shall deny or revoke the license of an
590 assisted living facility if:

591 (a) There are two moratoria, issued pursuant to this part
592 or part II of chapter 408, within a 2-year period which are
593 imposed by final order;

594 (b) The facility is cited for two or more class I
595 violations arising from unrelated circumstances during the same
596 survey or investigation; or

597 (c) The facility is cited for two or more class I
598 violations arising from separate surveys or investigations
599 within a 2-year period ~~that has two or more class I violations~~
600 ~~that are similar or identical to violations identified by the~~
601 ~~agency during a survey, inspection, monitoring visit, or~~
602 ~~complaint investigation occurring within the previous 2 years.~~

603 (5) An action taken by the agency to suspend, deny, or
604 revoke a facility's license under this part or part II of
605 chapter 408, in which the agency claims that the facility owner
606 or an employee of the facility has threatened the health,
607 safety, or welfare of a resident of the facility must be heard
608 by the Division of Administrative Hearings of the Department of
609 Management Services within 120 days after receipt of the

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610 facility's request for a hearing, unless that time limitation is
611 waived by both parties. The administrative law judge shall ~~must~~
612 render a decision within 30 days after receipt of a proposed
613 recommended order.

614 (6) The agency shall impose an immediate moratorium, as
615 provided under s. 408.814, on an assisted living facility that
616 fails to provide the agency access to the facility or prohibits
617 the agency from conducting a regulatory inspection. The licensee
618 may not restrict agency staff in accessing and copying records
619 or in conducting confidential interviews with facility staff or
620 any individual who receives services from the facility provide
621 ~~to the Division of Hotels and Restaurants of the Department of~~
622 ~~Business and Professional Regulation, on a monthly basis, a list~~
623 ~~of those assisted living facilities that have had their licenses~~
624 ~~denied, suspended, or revoked or that are involved in an~~
625 ~~appellate proceeding pursuant to s. 120.60 related to the~~
626 ~~denial, suspension, or revocation of a license.~~

627 (7) Agency notification of a license suspension or
628 revocation, or denial of a license renewal, shall be posted and
629 visible to the public at the facility.

630 (8) If a facility is required to relocate some or all of
631 its residents due to agency action, that facility is exempt from
632 the 45 days' notice requirement in s. 429.28(1)(k). This
633 provision does not exempt the facility from any deadlines for
634 corrective action set by the agency.

635 Section 7. Paragraphs (a) and (b) of subsection (2) of
636 section 429.178, Florida Statutes, are amended to read:

637 429.178 Special care for persons with Alzheimer's disease
638 or other related disorders.-

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639 (2) (a) An individual who is employed by a facility that
640 provides special care for residents with Alzheimer's disease or
641 other related disorders, and who has regular contact with such
642 residents, must complete up to 4 hours of initial dementia-
643 specific training developed or approved by the department. The
644 training must ~~shall~~ be completed within 3 months after beginning
645 employment and satisfy ~~shall satisfy~~ the core training
646 requirements of s. 429.52(3)(g) ~~s. 429.52(2)(g)~~.

647 (b) A direct caregiver who is employed by a facility that
648 provides special care for residents with Alzheimer's disease or
649 other related disorders, and who provides direct care to such
650 residents, must complete the required initial training and 4
651 additional hours of training developed or approved by the
652 department. The training must ~~shall~~ be completed within 9 months
653 after beginning employment and satisfy ~~shall satisfy~~ the core
654 training requirements of s. 429.52(3)(g) ~~s. 429.52(2)(g)~~.

655 Section 8. Section 429.19, Florida Statutes, is amended to
656 read:

657 429.19 Violations; imposition of administrative fines;
658 grounds.—

659 (1) In addition to the requirements of part II of chapter
660 408, the agency shall impose an administrative fine in the
661 manner provided in chapter 120 for the violation of any
662 provision of this part, part II of chapter 408, and applicable
663 rules by an assisted living facility, for the actions of any
664 person subject to level 2 background screening under s. 408.809,
665 for the actions of any facility employee, or for an intentional
666 or negligent act seriously affecting the health, safety, or
667 welfare of a resident of the facility.

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668 (2) Each violation of this part and adopted rules must
669 ~~shall~~ be classified according to the nature of the violation and
670 the gravity of its probable effect on facility residents. The
671 agency shall indicate the classification on the written notice
672 of the violation as follows:

673 (a) Class "I" violations are defined in s. 408.813. The
674 agency shall impose an administrative fine of \$7,500 for each a
675 cited class I violation in a facility that is licensed for fewer
676 than 100 beds at the time of the violation ~~in an amount not less~~
677 ~~than \$5,000 and not exceeding \$10,000 for each violation.~~ The
678 agency shall impose an administrative fine of \$11,250 for each
679 cited class I violation in a facility that is licensed for 100
680 or more beds at the time of the violation. If the noncompliance
681 occurs within the prior 12 months, the fine must be levied for
682 violations that are corrected before an inspection.

683 (b) Class "II" violations are defined in s. 408.813. The
684 agency shall impose an administrative fine of \$3,000 for each a
685 cited class II violation in a facility that is licensed for
686 fewer than 100 beds at the time of the violation ~~in an amount~~
687 ~~not less than \$1,000 and not exceeding \$5,000 for each~~
688 ~~violation.~~ The agency shall impose an administrative fine of
689 \$4,500 for each cited class II violation in a facility that is
690 licensed for 100 or more beds at the time of the violation.

691 (c) Class "III" violations are defined in s. 408.813. The
692 agency shall impose an administrative fine of \$750 for each a
693 cited class III violation in a facility that is licensed for
694 fewer than 100 beds at the time of the violation ~~in an amount~~
695 ~~not less than \$500 and not exceeding \$1,000 for each violation.~~
696 The agency shall impose an administrative fine of \$1,125 for

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697 each cited class III violation in a facility that is licensed
698 for 100 or more beds at the time of the violation.

699 (d) Class "IV" violations are defined in s. 408.813. The
700 agency shall impose an administrative fine of \$150 for each a
701 cited class IV violation in a facility that is licensed for
702 fewer than 100 beds at the time of the violation ~~in an amount~~
703 ~~not less than \$100 and not exceeding \$200 for each violation.~~
704 The agency shall impose an administrative fine of \$225 for each
705 cited class IV violation in a facility that is licensed for 100
706 or more beds at the time of the violation.

707 (e) Any fine imposed for class I and class II violations
708 must be doubled if a facility was previously cited for one or
709 more class I or class II violations during the agency's last
710 licensure inspection or any inspection or complaint
711 investigation since the last licensure inspection.

712 (f) Notwithstanding s. 408.813(2)(c) and (d) and s.
713 408.832, a fine must be imposed for each class III and class IV
714 violation, regardless of correction, if a facility was
715 previously cited for one or more class III or class IV
716 violations during the agency's last licensure inspection or any
717 inspection or complaint investigation since the last licensure
718 inspection, for the same regulatory violation. A fine imposed
719 for class III or class IV violations must be doubled if a
720 facility was previously cited for one or more class III or class
721 IV violations during the agency's last two licensure inspections
722 for the same regulatory violation.

723 (g) Regardless of the class of violation cited, instead of
724 the fine amounts listed in paragraphs (a)-(d), the agency shall
725 impose an administrative fine of \$500 if a facility is found not

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726 to be in compliance with the background screening requirements
727 as provided in s. 408.809.

728 ~~(3) For purposes of this section, in determining if a~~
729 ~~penalty is to be imposed and in fixing the amount of the fine,~~
730 ~~the agency shall consider the following factors:~~

731 ~~(a) The gravity of the violation, including the probability~~
732 ~~that death or serious physical or emotional harm to a resident~~
733 ~~will result or has resulted, the severity of the action or~~
734 ~~potential harm, and the extent to which the provisions of the~~
735 ~~applicable laws or rules were violated.~~

736 ~~(b) Actions taken by the owner or administrator to correct~~
737 ~~violations.~~

738 ~~(c) Any previous violations.~~

739 ~~(d) The financial benefit to the facility of committing or~~
740 ~~continuing the violation.~~

741 ~~(e) The licensed capacity of the facility.~~

742 (3)~~(4)~~ Each day of continuing violation after the date
743 established by the agency ~~fixed~~ for correction ~~termination~~ of
744 the violation, ~~as ordered by the agency,~~ constitutes an
745 additional, separate, and distinct violation.

746 (4)~~(5)~~ An ~~Any~~ action taken to correct a violation shall be
747 documented in writing by the owner or administrator of the
748 facility and verified through followup visits by agency
749 personnel. The agency may impose a fine and, in the case of an
750 owner-operated facility, revoke or deny a facility's license
751 when a facility administrator fraudulently misrepresents action
752 taken to correct a violation.

753 (5)~~(6)~~ A ~~Any~~ facility whose owner fails to apply for a
754 change-of-ownership license in accordance with part II of

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755 chapter 408 and operates the facility under the new ownership is
756 subject to a fine of \$5,000.

757 (6)~~(7)~~ In addition to any administrative fines imposed, the
758 agency may assess a survey fee, equal to the lesser of one half
759 of the facility's biennial license and bed fee or \$500, to cover
760 the cost of conducting initial complaint investigations that
761 result in the finding of a violation that was the subject of the
762 complaint or monitoring visits conducted under s. 429.28(3)(c)
763 to verify the correction of the violations.

764 (7)~~(8)~~ During an inspection, the agency shall make a
765 reasonable attempt to discuss each violation with the owner or
766 administrator of the facility, prior to written notification.

767 (8)~~(9)~~ The agency shall develop and disseminate an annual
768 list of all facilities sanctioned or fined for violations of
769 state standards, the number and class of violations involved,
770 the penalties imposed, and the current status of cases. The list
771 shall be disseminated, at no charge, to the Department of
772 Elderly Affairs, the Department of Health, the Department of
773 Children and Family Services, the Agency for Persons with
774 Disabilities, the area agencies on aging, the Florida Statewide
775 Advocacy Council, and the state and local ombudsman councils.
776 The Department of Children and Family Services shall disseminate
777 the list to service providers under contract to the department
778 who are responsible for referring persons to a facility for
779 residency. The agency may charge a fee commensurate with the
780 cost of printing and postage to other interested parties
781 requesting a copy of this list. This information may be provided
782 electronically or through the agency's Internet site.

783 Section 9. Subsections (2) and (6) of section 429.28,

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784 Florida Statutes, are amended to read:

785 429.28 Resident bill of rights.—

786 (2) The administrator of a facility shall ensure that a
787 written notice of the rights, obligations, and prohibitions set
788 forth in this part is posted in a prominent place in each
789 facility and read or explained to residents who cannot read. The
790 ~~This~~ notice must ~~shall~~ include the name, address, and telephone
791 numbers of the local ombudsman council and central abuse hotline
792 and, if when applicable, Disability Rights Florida the Advocacy
793 ~~Center for Persons with Disabilities, Inc., and the Florida~~
794 ~~local advocacy council~~, where complaints may be lodged. The
795 notice must state that a complaint made to the Office of State
796 Long-Term Care Ombudsman or a local long-term care ombudsman
797 council, the names and identities of the residents involved in
798 the complaint, and the identity of complainants are kept
799 confidential pursuant to s. 400.0077 and that retaliatory action
800 cannot be taken against a resident for presenting grievances or
801 for exercising any other resident right. The facility must
802 ensure a resident's access to a telephone to call the local
803 ombudsman council, central abuse hotline, and Disability Rights
804 ~~Florida Advocacy Center for Persons with Disabilities, Inc., and~~
805 ~~the Florida local advocacy council.~~

806 (6) A ~~Any~~ facility that ~~which~~ terminates the residency of
807 an individual who participated in activities specified in
808 subsection (5) must ~~shall~~ show good cause in a court of
809 competent jurisdiction. If good cause is not shown, the agency
810 shall impose a fine of \$2,500 in addition to any other penalty
811 assessed against the facility.

812 Section 10. Section 429.34, Florida Statutes, is amended to

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813 read:

814 429.34 Right of entry and inspection.-

815 (1) In addition to the requirements of s. 408.811, any duly
816 designated officer or employee of the department, the Department
817 of Children and Family Services, the Medicaid Fraud Control Unit
818 of the Office of the Attorney General, the state or local fire
819 marshal, or a member of the state or local long-term care
820 ombudsman council has ~~shall have~~ the right to enter unannounced
821 upon and into the premises of any facility licensed pursuant to
822 this part in order to determine the state of compliance with the
823 provisions of this part, part II of chapter 408, and applicable
824 rules. Data collected by the state or local long-term care
825 ombudsman councils or the state or local advocacy councils may
826 be used by the agency in investigations involving violations of
827 regulatory standards. A person specified in this section who
828 knows or has reasonable cause to suspect that a vulnerable adult
829 has been or is being abused, neglected, or exploited shall
830 immediately report such knowledge or suspicion to the central
831 abuse hotline pursuant to chapter 415.

832 (2) Each licensed assisted living facility must be
833 inspected by the agency at least once every 24 months to
834 determine compliance with this chapter and related rules. If an
835 assisted living facility is cited for one or more class I
836 violations or two or more class II violations arising from
837 separate surveys within a 60-day period or due to unrelated
838 circumstances during the same survey, the agency must conduct an
839 additional licensure inspection within 6 months. In addition to
840 any fines imposed on the facility under s. 429.19, the licensee
841 must pay a fee for the cost of the additional inspection

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842 equivalent to the standard assisted living facility license and
843 per-bed fees, without exception for beds designated for
844 recipients of optional state supplementation. The agency shall
845 adjust the fee in accordance with s. 408.805.

846 Section 11. Present subsections (1) through (11) of section
847 429.52, Florida Statutes, are redesignated as subsections (2)
848 through (12), respectively, a new subsection (1) is added to
849 that section, and present subsection (9) of that section is
850 amended, to read:

851 429.52 Staff training and educational programs; core
852 educational requirement.—

853 (1) Effective October 1, 2013, each new assisted living
854 facility employee who has not previously completed core training
855 must attend a preservice orientation provided by the facility
856 before interacting with residents. The preservice orientation
857 must be at least 2 hours in duration and cover topics that help
858 the employee provide responsible care and respond to the needs
859 of residents of the facility. Upon completion, the employee and
860 the administrator of the facility must sign an affidavit stating
861 that the employee completed the required preservice orientation.
862 The facility must keep the affidavit in the employee's work
863 file.

864 (10)~~(9)~~ The training required by this section must ~~shall~~ be
865 conducted by persons registered with the department as having
866 the requisite experience and credentials to conduct the
867 training. A person seeking to register as a trainer must provide
868 the department with proof of completion of the minimum core
869 training education requirements, successful passage of the
870 competency test established under this section, and proof of

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871 compliance with the continuing education requirement in
872 subsection (5)~~(4)~~.

873 Section 12. The Legislature finds that consistent
874 regulation of assisted living facilities benefits residents and
875 operators of such facilities. To determine whether surveys are
876 consistent between surveys and surveyors, the Agency for Health
877 Care Administration shall conduct a study of intersurveyor
878 reliability for assisted living facilities. By November 1, 2013,
879 the agency shall report to the Governor, the President of the
880 Senate, and the Speaker of the House of Representatives its
881 findings and make any recommendations to improve intersurveyor
882 reliability.

883 Section 13. The Legislature finds that consumers need
884 additional information on the quality of care and service in
885 assisted living facilities in order to select the best facility
886 for themselves or their loved ones. Therefore, the Agency for
887 Health Care Administration shall:

888 (1) Propose a rating system for assisted living facilities.
889 The proposal must include, but is not limited to, the data
890 elements to be used, the method of collecting the data, the
891 method of determining the rating, an estimate of the initial and
892 ongoing costs of a rating system to both the agency and assisted
893 living facilities, and a timetable for the implementation of the
894 rating system for assisted living facilities. The agency shall
895 submit its proposal to the Governor, the President of the
896 Senate, and the Speaker of the House of Representatives by
897 November 1, 2013.

898 (2) By January 1, 2014, create a content that is easily
899 accessible through the front page of the agency's website. At a

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900 minimum, the content must include:

901 (a) Information on each licensed assisted living facility,
902 including, but not limited to:

903 1. The name and address of the facility.

904 2. The number and type of licensed beds in the facility.

905 3. The types of licenses held by the facility.

906 4. The facility's license expiration date and status.

907 5. Other relevant information that the agency currently
908 collects.

909 (b) A list of the facility's violations, including, for
910 each violation:

911 1. A summary of the violation which is presented in a
912 manner understandable by the general public;

913 2. Any sanctions imposed by final order; and

914 3. A summary of any corrective action taken by the
915 facility.

916 (c) Links to inspection reports that the agency has on
917 file.

918 (d) A monitored comment page, maintained by the agency,
919 which allows members of the public to anonymously comment on
920 assisted living facilities that are licensed to operate in the
921 state. This comment page must, at a minimum, allow members of
922 the public to post comments on their experiences with, or
923 observations of, an assisted living facility and to review other
924 people's comments. Comments posted to the agency's comment page
925 may not contain profanity and are intended to provide meaningful
926 feedback about the assisted living facility. The agency shall
927 provide for a webpage moderator to review comments for profane
928 content before the comments are posted to the page. An employee,

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929 owner, or controlling interest in an assisted living facility is
930 prohibited from posting comments on the page.

931 Section 14. This act shall take effect July 1, 2013.