

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 managed care plans are responsible for enrolled mental
5 health residents; providing that managing entities
6 under contract with the Department of Children and
7 Families are responsible for mental health residents
8 who are not enrolled with a Medicaid managed care
9 plan; requiring that a community living support plan
10 be completed and provided to the administrator of a
11 facility within a specified period after the
12 resident's admission; requiring that the community
13 living support plan be updated when there is a
14 significant change to the mental health resident's
15 behavioral health; requiring a mental health resident
16 case manager to keep certain records of interactions
17 with the resident and to make the records available
18 for inspection; requiring retention of the records for
19 a specified period; requiring the responsible entity
20 to ensure monitoring and implementation of community
21 living support plans and cooperative agreements;
22 amending s. 400.0074, F.S.; requiring a local
23 ombudsman council to conduct comprehensive onsite
24 administrative assessments; requiring a local council
25 to conduct an exit consultation with the facility
26 administrator or administrator designee; amending s.

27 400.0078, F.S.; requiring that a long-term care
28 resident or resident representative be informed of
29 resident immunity from retaliatory action for
30 presenting grievances or exercising resident rights;
31 amending s. 409.212, F.S.; increasing the cap on
32 additional supplementation that a person may receive
33 under certain conditions; amending s. 429.02, F.S.;
34 revising the definition of the term "limited nursing
35 services"; amending s. 429.07, F.S.; requiring that an
36 extended congregate care license be issued to certain
37 facilities licensed as assisted living facilities
38 under certain circumstances and authorizing the
39 issuance of such license if a specified condition is
40 met; providing that the initial extended congregate
41 care license is provisional under certain
42 circumstances; requiring a licensee to notify the
43 agency of acceptance of a resident who qualifies for
44 extended congregate care services; requiring the
45 agency to inspect the facility for compliance with
46 license requirements; requiring the licensee to
47 suspend extended congregate care services under
48 certain circumstances; revising the frequency of
49 monitoring visits to a facility by a registered nurse
50 representing the agency; authorizing the agency to
51 waive a required yearly monitoring visit under certain
52 circumstances; authorizing the agency to deny or

53 | revoke a facility's extended congregate care license;
54 | authorizing the agency to waive the required yearly
55 | monitoring visit for a facility that is licensed to
56 | provide limited nursing services under certain
57 | circumstances; amending s. 429.075, F.S.; requiring an
58 | assisted living facility that serves mental health
59 | residents to obtain a limited mental health license;
60 | requiring a limited mental health facility to provide
61 | written evidence that certain documentation was sent
62 | to the department within a specified period; amending
63 | s. 429.14, F.S.; requiring the agency to deny or
64 | revoke the license of an assisted living facility
65 | under certain circumstances; requiring the agency to
66 | impose an immediate moratorium on the license of an
67 | assisted living facility under certain circumstances;
68 | deleting a requirement that the agency provide a list
69 | of facilities with denied, suspended, or revoked
70 | licenses to the Department of Business and
71 | Professional Regulation; exempting a facility from the
72 | 45-day notice requirement if it is required to
73 | relocate residents; amending s. 429.178, F.S.;
74 | conforming cross-references; amending s. 429.19, F.S.;
75 | requiring the agency to levy a fine for violations
76 | that are corrected before an inspection if
77 | noncompliance occurred within a specified period of
78 | time; amending s. 429.256, F.S.; revising the term

79 "assistance with self-administration of medication" as
80 it relates to the Assisted Living Facilities Act;
81 amending s. 429.27, F.S.; revising the amount of cash
82 for which a facility may provide safekeeping for a
83 resident; amending s. 429.28, F.S.; providing notice
84 requirements regarding confidentiality of resident
85 identity in a complaint made to the State Long-Term
86 Care Ombudsman Program or a local long-term care
87 ombudsman council and immunity from retaliatory action
88 for presenting grievances or exercising resident
89 rights; providing a fine if a facility terminates an
90 individual's residency after the filing of a complaint
91 if good cause is not shown for the termination;
92 requiring the agency to adopt rules; amending s.
93 429.34, F.S.; requiring certain persons to report
94 elder abuse in assisted living facilities; requiring
95 the agency to regularly inspect a licensed assisted
96 living facility; requiring the agency to conduct
97 periodic inspections; amending s. 429.41, F.S.;
98 providing that certain staffing requirements apply
99 only to residents in continuing care facilities who
100 are receiving certain services; amending s. 429.52,
101 F.S.; requiring each newly hired employee of an
102 assisted living facility to attend a preservice
103 orientation; requiring the employee and administrator
104 to sign a statement of completion and keep the

105 statement in the employee's personnel record;
 106 requiring additional hours of training for assistance
 107 with medication; creating s. 429.55, F.S.; directing
 108 the agency to create an assisted living facility
 109 consumer information website; providing criteria for
 110 webpage content; providing content requirements;
 111 authorizing the agency to adopt rules; providing an
 112 effective date.

113

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

115

116 Section 1. Section 394.4574, Florida Statutes, is amended
 117 to read:

118 394.4574 ~~Department~~ Responsibilities for coordination of
 119 services for a mental health resident who resides in an assisted
 120 living facility that holds a limited mental health license.—

121 (1) As used in this section, the term "mental health
 122 resident," ~~for purposes of this section,~~ means an individual who
 123 receives social security disability income due to a mental
 124 disorder as determined by the Social Security Administration or
 125 receives supplemental security income due to a mental disorder
 126 as determined by the Social Security Administration and receives
 127 optional state supplementation.

128 (2) Medicaid managed care plans are responsible for
 129 Medicaid enrolled mental health residents, and managing entities
 130 under contract with the department are responsible for mental

131 health residents who are not enrolled in a Medicaid health plan.

132 A Medicaid managed care plan or a managing entity shall ~~The~~

133 ~~department must~~ ensure that:

134 (a) A mental health resident has been assessed by a
 135 psychiatrist, clinical psychologist, clinical social worker, or
 136 psychiatric nurse, or an individual who is supervised by one of
 137 these professionals, and determined to be appropriate to reside
 138 in an assisted living facility. The documentation must be
 139 provided to the administrator of the facility within 30 days
 140 after the mental health resident has been admitted to the
 141 facility. An evaluation completed upon discharge from a state
 142 mental hospital meets the requirements of this subsection
 143 related to appropriateness for placement as a mental health
 144 resident if it was completed within 90 days before ~~prior to~~
 145 admission to the facility.

146 (b) A cooperative agreement, as required in s. 429.075, is
 147 developed by ~~between~~ the mental health care services provider
 148 that serves a mental health resident and the administrator of
 149 the assisted living facility with a limited mental health
 150 license in which the mental health resident is living. ~~Any~~
 151 ~~entity that provides Medicaid prepaid health plan services shall~~
 152 ~~ensure the appropriate coordination of health care services with~~
 153 ~~an assisted living facility in cases where a Medicaid recipient~~
 154 ~~is both a member of the entity's prepaid health plan and a~~
 155 ~~resident of the assisted living facility. If the entity is at~~
 156 ~~risk for Medicaid targeted case management and behavioral health~~

157 ~~services, the entity shall inform the assisted living facility~~
158 ~~of the procedures to follow should an emergent condition arise.~~

159 (c) The community living support plan, as defined in s.
160 429.02, has been prepared by a mental health resident and his or
161 her ~~a~~ mental health case manager ~~of that resident~~ in
162 consultation with the administrator of the facility or the
163 administrator's designee. The plan must be completed and
164 provided to the administrator of the assisted living facility
165 with a limited mental health license in which the mental health
166 resident lives within 30 days after the resident's admission.
167 The support plan and the agreement may be in one document.

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

171 (e) The mental health services provider assigns a case
172 manager to each mental health resident for whom the entity is
173 responsible ~~who lives in an assisted living facility with a~~
174 ~~limited mental health license.~~ The case manager shall coordinate
175 ~~is responsible for coordinating~~ the development ~~of~~ and
176 implementation of the community living support plan defined in
177 s. 429.02. The plan must be updated at least annually, or when
178 there is a significant change in the resident's behavioral
179 health status. Each case manager shall keep a record of the date
180 and time of any face-to-face interaction with the resident and
181 make the record available to the responsible entity for
182 inspection. The record must be retained for at least 2 years

183 after the date of the most recent interaction.

184 (f) Consistent monitoring and implementation of community
 185 living support plans and cooperative agreements are conducted by
 186 the resident's case manager.

187 (g) Concerns are reported to the appropriate regulatory
 188 oversight organization if a regulated provider fails to deliver
 189 appropriate services or otherwise acts in a manner that has the
 190 potential to result in harm to the resident.

191 (3) The Secretary of Children and Families, in
 192 consultation with the Agency for Health Care Administration,
 193 shall ~~annually~~ require each district administrator to develop,
 194 with community input, a detailed annual plan that demonstrates
 195 ~~detailed plans that demonstrate~~ how the district will ensure the
 196 provision of state-funded mental health and substance abuse
 197 treatment services to residents of assisted living facilities
 198 that hold a limited mental health license. This plan ~~These plans~~
 199 must be consistent with the substance abuse and mental health
 200 district plan developed pursuant to s. 394.75 and must address
 201 case management services; access to consumer-operated drop-in
 202 centers; access to services during evenings, weekends, and
 203 holidays; supervision of the clinical needs of the residents;
 204 and access to emergency psychiatric care.

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

208 400.0074 Local ombudsman council onsite administrative

209 assessments.—

210 (1) In addition to any specific investigation conducted
 211 pursuant to a complaint, the local council shall conduct, at
 212 least annually, an onsite administrative assessment of each
 213 nursing home, assisted living facility, and adult family-care
 214 home within its jurisdiction. This administrative assessment
 215 must be comprehensive in nature and must ~~shall~~ focus on factors
 216 affecting residents' ~~the~~ rights, health, safety, and welfare ~~of~~
 217 ~~the residents~~. Each local council is encouraged to conduct a
 218 similar onsite administrative assessment of each additional
 219 long-term care facility within its jurisdiction.

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

222 (h) Upon completion of an administrative assessment, the
 223 local council shall conduct an exit consultation with the
 224 facility administrator or a designee representing the facility
 225 to discuss issues and concerns in areas affecting residents'
 226 rights, health, safety, and welfare and, if needed, make
 227 recommendations for improvement.

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

230 400.0078 Citizen access to State Long-Term Care Ombudsman
 231 Program services.—

232 ~~(2) Every resident or representative of a resident shall~~
 233 ~~receive,~~ Upon admission to a long-term care facility, each
 234 resident or representative of a resident must receive

235 information regarding the purpose of the State Long-Term Care
 236 Ombudsman Program, the statewide toll-free telephone number for
 237 receiving complaints, information that retaliatory action cannot
 238 be taken against a resident for presenting grievances or for
 239 exercising any other resident right, and other relevant
 240 information regarding how to contact the program. Each resident
 241 or his or her representative ~~Residents or their representatives~~
 242 must be furnished additional copies of this information upon
 243 request.

244 Section 4. Paragraph (c) of subsection (4) of section
 245 409.212, Florida Statutes, is amended to read:

246 409.212 Optional supplementation.—

247 (4) In addition to the amount of optional supplementation
 248 provided by the state, a person may receive additional
 249 supplementation from third parties to contribute to his or her
 250 cost of care. Additional supplementation may be provided under
 251 the following conditions:

252 (c) The additional supplementation shall not exceed four
 253 ~~two~~ times the provider rate recognized under the optional state
 254 supplementation program.

255 Section 5. Subsection (13) of section 429.02, Florida
 256 Statutes, is amended to read:

257 429.02 Definitions.—When used in this part, the term:

258 (13) "Limited nursing services" means acts that may be
 259 performed by a person licensed under ~~pursuant to~~ part I of
 260 chapter 464 ~~by persons licensed thereunder while carrying out~~

261 ~~their professional duties but limited to those acts which the~~
262 ~~department specifies by rule. Acts which may be specified by~~
263 ~~rule as allowable~~ Limited nursing services shall be for persons
264 who meet the admission criteria established by the department
265 for assisted living facilities and shall not be complex enough
266 to require 24-hour nursing supervision and may include such
267 services as the application and care of routine dressings, and
268 care of casts, braces, and splints.

269 Section 6. Paragraphs (b) and (c) of subsection (3) of
270 section 429.07, Florida Statutes, are amended to read:

271 429.07 License required; fee.—

272 (3) In addition to the requirements of s. 408.806, each
273 license granted by the agency must state the type of care for
274 which the license is granted. Licenses shall be issued for one
275 or more of the following categories of care: standard, extended
276 congregate care, limited nursing services, or limited mental
277 health.

278 (b) An extended congregate care license shall be issued to
279 each facility that has been licensed as an assisted living
280 facility for 2 or more years and that provides services
281 ~~facilities providing, directly or through contract, services~~
282 beyond those authorized in paragraph (a), including services
283 performed by persons licensed under part I of chapter 464 and
284 supportive services, as defined by rule, to persons who would
285 otherwise be disqualified from continued residence in a facility
286 licensed under this part. An extended congregate care license

287 may be issued to a facility that has a provisional extended
 288 congregate care license and meets the requirements for licensure
 289 under subparagraph 2. The primary purpose of extended congregate
 290 care services is to allow residents the option of remaining in a
 291 familiar setting from which they would otherwise be disqualified
 292 for continued residency as they become more impaired. A facility
 293 licensed to provide extended congregate care services may also
 294 admit an individual who exceeds the admission criteria for a
 295 facility with a standard license, if he or she is determined
 296 appropriate for admission to the extended congregate care
 297 facility.

298 1. In order for extended congregate care services to be
 299 provided, the agency must first determine that all requirements
 300 established in law and rule are met and must specifically
 301 designate, on the facility's license, that such services may be
 302 provided and whether the designation applies to all or part of
 303 the facility. This ~~Such~~ designation may be made at the time of
 304 initial licensure or relicensure, or upon request in writing by
 305 a licensee under this part and part II of chapter 408. The
 306 notification of approval or the denial of the request shall be
 307 made in accordance with part II of chapter 408. Each existing
 308 facility that qualifies ~~facilities qualifying~~ to provide
 309 extended congregate care services must have maintained a
 310 standard license and may not have been subject to administrative
 311 sanctions during the previous 2 years, or since initial
 312 licensure if the facility has been licensed for less than 2

313 years, for any of the following reasons:

314 a. A class I or class II violation;

315 b. Three or more repeat or recurring class III violations
316 of identical or similar resident care standards from which a
317 pattern of noncompliance is found by the agency;

318 c. Three or more class III violations that were not
319 corrected in accordance with the corrective action plan approved
320 by the agency;

321 d. Violation of resident care standards which results in
322 requiring the facility to employ the services of a consultant
323 pharmacist or consultant dietitian;

324 e. Denial, suspension, or revocation of a license for
325 another facility licensed under this part in which the applicant
326 for an extended congregate care license has at least 25 percent
327 ownership interest; or

328 f. Imposition of a moratorium pursuant to this part or
329 part II of chapter 408 or initiation of injunctive proceedings.

330
331 The agency may deny or revoke a facility's extended congregate
332 care license for not meeting the criteria for an extended
333 congregate care license as provided in this subparagraph.

334 2. If an assisted living facility has been licensed for
335 less than 2 years, the initial extended congregate care license
336 must be provisional and may not exceed 6 months. The licensee
337 shall notify the agency, in writing, when it has admitted at
338 least one extended congregate care resident, after which an

339 unannounced inspection shall be made to determine compliance
340 with the requirements of an extended congregate care license. A
341 licensee with a provisional extended congregate care license
342 that demonstrates compliance with all the requirements of an
343 extended congregate care license during the inspection shall be
344 issued an extended congregate care license. In addition to
345 sanctions authorized under this part, if violations are found
346 during the inspection and the licensee fails to demonstrate
347 compliance with all assisted living facility requirements during
348 a followup inspection, the licensee shall immediately suspend
349 extended congregate care services, and the provisional extended
350 congregate care license expires. The agency may extend the
351 provisional license for not more than 1 month in order to
352 complete a followup visit.

353 3.2. A facility that is licensed to provide extended
354 congregate care services shall maintain a written progress
355 report on each person who receives services which describes the
356 type, amount, duration, scope, and outcome of services that are
357 rendered and the general status of the resident's health. A
358 registered nurse, or appropriate designee, representing the
359 agency shall visit the facility at least twice a year ~~quarterly~~
360 to monitor residents who are receiving extended congregate care
361 services and to determine if the facility is in compliance with
362 this part, part II of chapter 408, and relevant rules. One of
363 the visits may be in conjunction with the regular survey. The
364 monitoring visits may be provided through contractual

365 arrangements with appropriate community agencies. A registered
366 nurse shall serve as part of the team that inspects the
367 facility. The agency may waive one of the required yearly
368 monitoring visits for a facility that has:

369 a. Held an extended congregate care license for at least
370 24 months; ~~been licensed for at least 24 months to provide~~
371 ~~extended congregate care services, if, during the inspection,~~
372 ~~the registered nurse determines that extended congregate care~~
373 ~~services are being provided appropriately, and if the facility~~
374 ~~has~~

375 b. No class I or class II violations and no uncorrected
376 class III violations; and-

377 c. No ombudsman council complaints that resulted in a
378 citation for licensure. ~~The agency must first consult with the~~
379 ~~long term care ombudsman council for the area in which the~~
380 ~~facility is located to determine if any complaints have been~~
381 ~~made and substantiated about the quality of services or care.~~
382 ~~The agency may not waive one of the required yearly monitoring~~
383 ~~visits if complaints have been made and substantiated.~~

384 ~~4.3-~~ A facility that is licensed to provide extended
385 congregate care services must:

386 a. Demonstrate the capability to meet unanticipated
387 resident service needs.

388 b. Offer a physical environment that promotes a homelike
389 setting, provides for resident privacy, promotes resident
390 independence, and allows sufficient congregate space as defined

391 by rule.

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

395 d. Adopt and follow policies and procedures that maximize
396 resident independence, dignity, choice, and decisionmaking to
397 permit residents to age in place, so that moves due to changes
398 in functional status are minimized or avoided.

399 e. Allow residents or, if applicable, a resident's
400 representative, designee, surrogate, guardian, or attorney in
401 fact to make a variety of personal choices, participate in
402 developing service plans, and share responsibility in
403 decisionmaking.

404 f. Implement the concept of managed risk.

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

407 h. In addition to the training mandated in s. 429.52,
408 provide specialized training as defined by rule for facility
409 staff.

410 ~~5.4.~~ A facility that is licensed to provide extended
411 congregate care services is exempt from the criteria for
412 continued residency set forth in rules adopted under s. 429.41.
413 A licensed facility must adopt its own requirements within
414 guidelines for continued residency set forth by rule. However,
415 the facility may not serve residents who require 24-hour nursing
416 supervision. A licensed facility that provides extended

417 | congregate care services must also provide each resident with a
418 | written copy of facility policies governing admission and
419 | retention.

420 | ~~5. The primary purpose of extended congregate care~~
421 | ~~services is to allow residents, as they become more impaired,~~
422 | ~~the option of remaining in a familiar setting from which they~~
423 | ~~would otherwise be disqualified for continued residency. A~~
424 | ~~facility licensed to provide extended congregate care services~~
425 | ~~may also admit an individual who exceeds the admission criteria~~
426 | ~~for a facility with a standard license, if the individual is~~
427 | ~~determined appropriate for admission to the extended congregate~~
428 | ~~care facility.~~

429 | 6. Before the admission of an individual to a facility
430 | licensed to provide extended congregate care services, the
431 | individual must undergo a medical examination as provided in s.
432 | 429.26(4) and the facility must develop a preliminary service
433 | plan for the individual.

434 | 7. If ~~When~~ a facility can no longer provide or arrange for
435 | services in accordance with the resident's service plan and
436 | needs and the facility's policy, the facility must ~~shall~~ make
437 | arrangements for relocating the person in accordance with s.
438 | 429.28(1)(k).

439 | ~~8. Failure to provide extended congregate care services~~
440 | ~~may result in denial of extended congregate care license~~
441 | ~~renewal.~~

442 | (c) A limited nursing services license shall be issued to

443 a facility that provides services beyond those authorized in
 444 paragraph (a) and as specified in this paragraph.

445 1. In order for limited nursing services to be provided in
 446 a facility licensed under this part, the agency must first
 447 determine that all requirements established in law and rule are
 448 met and must specifically designate, on the facility's license,
 449 that such services may be provided. This ~~Such~~ designation may be
 450 made at the time of initial licensure or licensure renewal
 451 ~~relicensure~~, or upon request in writing by a licensee under this
 452 part and part II of chapter 408. Notification of approval or
 453 denial of such request shall be made in accordance with part II
 454 of chapter 408. An existing facility that qualifies ~~facilities~~
 455 ~~qualifying~~ to provide limited nursing services must ~~shall~~ have
 456 maintained a standard license and may not have been subject to
 457 administrative sanctions that affect the health, safety, and
 458 welfare of residents for the previous 2 years or since initial
 459 licensure if the facility has been licensed for less than 2
 460 years.

461 2. A facility ~~Facilities~~ that is ~~are~~ licensed to provide
 462 limited nursing services shall maintain a written progress
 463 report on each person who receives such nursing services. The
 464 ~~which~~ report must describe ~~describes~~ the type, amount, duration,
 465 scope, and outcome of services that are rendered and the general
 466 status of the resident's health. A registered nurse representing
 467 the agency shall visit the facility ~~such facilities~~ at least
 468 annually ~~twice a year~~ to monitor residents who are receiving

469 limited nursing services and to determine if the facility is in
470 compliance with applicable provisions of this part, part II of
471 chapter 408, and related rules. The monitoring visits may be
472 provided through contractual arrangements with appropriate
473 community agencies. A registered nurse shall also serve as part
474 of the team that inspects such facility. Visits may be in
475 conjunction with other agency inspections. The agency may waive
476 the required yearly monitoring visit for a facility that has:

477 a. Had a limited nursing services license for at least 24
478 months;

479 b. No class I or class II violations and no uncorrected
480 class III violations; and

481 c. No ombudsman council complaints that resulted in a
482 citation for licensure.

483 3. A person who receives limited nursing services under
484 this part must meet the admission criteria established by the
485 agency for assisted living facilities. When a resident no longer
486 meets the admission criteria for a facility licensed under this
487 part, arrangements for relocating the person shall be made in
488 accordance with s. 429.28(1)(k), unless the facility is licensed
489 to provide extended congregate care services.

490 Section 7. Section 429.075, Florida Statutes, is amended
491 to read:

492 429.075 Limited mental health license.—An assisted living
493 facility that serves one ~~three~~ or more mental health residents
494 must obtain a limited mental health license.

495 (1) To obtain a limited mental health license, a facility
 496 must hold a standard license as an assisted living facility,
 497 must not have any current uncorrected ~~deficiencies or~~
 498 violations, and must ensure that, within 6 months after
 499 receiving a limited mental health license, the facility
 500 administrator and the staff of the facility who are in direct
 501 contact with mental health residents must complete training of
 502 no less than 6 hours related to their duties. This ~~Such~~
 503 designation may be made at the time of initial licensure or
 504 relicensure or upon request in writing by a licensee under this
 505 part and part II of chapter 408. Notification of approval or
 506 denial of such request shall be made in accordance with this
 507 part, part II of chapter 408, and applicable rules. This
 508 training must ~~will~~ be provided by or approved by the Department
 509 of Children and Families.

510 (2) A facility that is ~~Facilities~~ licensed to provide
 511 services to mental health residents must ~~shall~~ provide
 512 appropriate supervision and staffing to provide for the health,
 513 safety, and welfare of such residents.

514 (3) A facility that has a limited mental health license
 515 must:

516 (a) Have a copy of each mental health resident's community
 517 living support plan and the cooperative agreement with the
 518 mental health care services provider or provide written evidence
 519 that a request for the community living support plan and the
 520 cooperative agreement was sent to the Medicaid managed care plan

521 or managing entity under contract with the Department of
522 Children and Families within 72 hours after admission. The
523 support plan and the agreement may be combined.

524 (b) Have documentation ~~that is~~ provided by the department
525 ~~of Children and Families~~ that each mental health resident has
526 been assessed and determined to be able to live in the community
527 in an assisted living facility that has ~~with~~ a limited mental
528 health license or provide written evidence that a request for
529 documentation was sent to the department within 72 hours after
530 admission.

531 (c) Make the community living support plan available for
532 inspection by the resident, the resident's legal guardian or
533 ~~the resident's~~ health care surrogate, and other individuals who
534 have a lawful basis for reviewing this document.

535 (d) Assist the mental health resident in carrying out the
536 activities identified in the resident's ~~individual's~~ community
537 living support plan.

538 (4) A facility that has ~~with~~ a limited mental health
539 license may enter into a cooperative agreement with a private
540 mental health provider. For purposes of the limited mental
541 health license, the private mental health provider may act as
542 the case manager.

543 Section 8. Section 429.14, Florida Statutes, is amended to
544 read:

545 429.14 Administrative penalties.—

546 (1) In addition to the requirements of part II of chapter

547 408, the agency may deny, revoke, and suspend any license issued
 548 under this part and impose an administrative fine in the manner
 549 provided in chapter 120 against a licensee for a violation of
 550 any provision of this part, part II of chapter 408, or
 551 applicable rules, or for any of the following actions by a
 552 licensee, ~~for the actions of~~ any person subject to level 2
 553 background screening under s. 408.809, or ~~for the actions of~~ any
 554 facility staff ~~employee~~:

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

557 (b) A ~~The~~ determination by the agency that the owner lacks
 558 the financial ability to provide continuing adequate care to
 559 residents.

560 (c) Misappropriation or conversion of the property of a
 561 resident of the facility.

562 (d) Failure to follow the criteria and procedures provided
 563 under part I of chapter 394 relating to the transportation,
 564 voluntary admission, and involuntary examination of a facility
 565 resident.

566 (e) A citation for ~~of~~ any of the following violations
 567 ~~deficiencies~~ as specified in s. 429.19:

- 568 1. One or more cited class I violations ~~deficiencies~~.
- 569 2. Three or more cited class II violations ~~deficiencies~~.
- 570 3. Five or more cited class III violations ~~deficiencies~~
 571 that have been cited on a single survey and have not been
 572 corrected within the times specified.

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

575 (g) Violation of a moratorium.

576 (h) Failure of the license applicant, the licensee during
 577 relicensure, or a licensee that holds a provisional license to
 578 meet the minimum license requirements of this part, or related
 579 rules, at the time of license application or renewal.

580 (i) An intentional or negligent life-threatening act in
 581 violation of the uniform firesafety standards for assisted
 582 living facilities or other firesafety standards which ~~that~~
 583 threatens the health, safety, or welfare of a resident of a
 584 facility, as communicated to the agency by the local authority
 585 having jurisdiction or the State Fire Marshal.

586 (j) Knowingly operating any unlicensed facility or
 587 providing without a license any service that must be licensed
 588 under this chapter or chapter 400.

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

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

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

599 ownership interest in any other facility that is licensed under
 600 this part, or in any entity licensed by this state or another
 601 state to provide health or residential care, if that ~~which~~
 602 facility or entity during the 5 years prior to the application
 603 for a license closed due to financial inability to operate; had
 604 a receiver appointed or a license denied, suspended, or revoked;
 605 was subject to a moratorium; or had an injunctive proceeding
 606 initiated against it.

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

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

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

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

621 (5) An action taken by the agency to suspend, deny, or
 622 revoke a facility's license under this part or part II of
 623 chapter 408, in which the agency claims that the facility owner
 624 or an employee of the facility has threatened the health,

625 safety, or welfare of a resident of the facility, shall be heard
626 by the Division of Administrative Hearings of the Department of
627 Management Services within 120 days after receipt of the
628 facility's request for a hearing, unless that time limitation is
629 waived by both parties. The administrative law judge shall ~~must~~
630 render a decision within 30 days after receipt of a proposed
631 recommended order.

632 (6) As provided under s. 408.814, the agency shall impose
633 an immediate moratorium on an assisted living facility that
634 fails to provide the agency with access to the facility or
635 prohibits the agency from conducting a regulatory inspection.
636 The licensee may not restrict agency staff from accessing and
637 copying records at the agency's expense or from conducting
638 confidential interviews with facility staff or any individual
639 who receives services from the facility ~~provide to the Division~~
640 ~~of Hotels and Restaurants of the Department of Business and~~
641 ~~Professional Regulation, on a monthly basis, a list of those~~
642 ~~assisted living facilities that have had their licenses denied,~~
643 ~~suspended, or revoked or that are involved in an appellate~~
644 ~~proceeding pursuant to s. 120.60 related to the denial,~~
645 ~~suspension, or revocation of a license.~~

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

649 (8) If a facility is required to relocate some or all of
650 its residents due to agency action, that facility is exempt from

651 the 45-day notice requirement imposed under s. 429.28(1)(k).
652 This subsection does not exempt the facility from any deadlines
653 for corrective action set by the agency.

654 Section 9. Paragraphs (a) and (b) of subsection (2) of
655 section 429.178, Florida Statutes, are amended to read:

656 429.178 Special care for persons with Alzheimer's disease
657 or other related disorders.—

658 (2)(a) An individual who is employed by a facility that
659 provides special care for residents who have ~~with~~ Alzheimer's
660 disease or other related disorders, and who has regular contact
661 with such residents, must complete up to 4 hours of initial
662 dementia-specific training developed or approved by the
663 department. The training must ~~shall~~ be completed within 3 months
664 after beginning employment and satisfy ~~shall satisfy~~ the core
665 training requirements of s. 429.52(3)(g) ~~429.52(2)(g)~~.

666 (b) A direct caregiver who is employed by a facility that
667 provides special care for residents who have ~~with~~ Alzheimer's
668 disease or other related disorders, ~~and who~~ provides direct care
669 to such residents, ~~must~~ complete the required initial training
670 and 4 additional hours of training developed or approved by the
671 department. The training must ~~shall~~ be completed within 9 months
672 after beginning employment and satisfy ~~shall satisfy~~ the core
673 training requirements of s. 429.52(3)(g) ~~429.52(2)(g)~~.

674 Section 10. Paragraph (e) is added to subsection (2) of
675 section 429.19, Florida Statutes, to read:

676 429.19 Violations; imposition of administrative fines;

677 grounds.—

678 (2) Each violation of this part and adopted rules shall be
679 classified according to the nature of the violation and the
680 gravity of its probable effect on facility residents. The agency
681 shall indicate the classification on the written notice of the
682 violation as follows:

683 (e) Regardless of the class of violation cited, instead of
684 the fine amounts listed in paragraphs (a)-(d), the agency shall
685 impose an administrative fine of \$500 if a facility is found not
686 to be in compliance with the background screening requirements
687 as provided in s. 408.809.

688 Section 11. Subsection (3) and paragraph (c) of subsection
689 (4) of section 429.256, Florida Statutes, are amended to read:

690 429.256 Assistance with self-administration of
691 medication.—

692 (3) Assistance with self-administration of medication
693 includes:

694 (a) Taking the medication, in its previously dispensed,
695 properly labeled container, including an insulin syringe that is
696 prefilled with the proper dosage by a pharmacist and an insulin
697 pen that is prefilled by the manufacturer, from where it is
698 stored, and bringing it to the resident.

699 (b) In the presence of the resident, reading the label,
700 opening the container, removing a prescribed amount of
701 medication from the container, and closing the container.

702 (c) Placing an oral dosage in the resident's hand or

703 placing the dosage in another container and helping the resident
704 by lifting the container to his or her mouth.

705 (d) Applying topical medications.

706 (e) Returning the medication container to proper storage.

707 (f) Keeping a record of when a resident receives
708 assistance with self-administration under this section.

709 (g) Assisting with the use of a nebulizer, including
710 removing the cap of a nebulizer, opening the unit dose of
711 nebulizer solution, and pouring the prescribed premeasured dose
712 of medication into the dispensing cup of the nebulizer.

713 (h) Using a glucometer to perform blood-glucose level
714 checks.

715 (i) Assisting with putting on and taking off antiembolism
716 stockings.

717 (j) Assisting with applying and removing an oxygen cannula
718 but not with titrating the prescribed oxygen settings.

719 (k) Assisting with the use of a continuous positive airway
720 pressure device but not with titrating the prescribed setting of
721 the device.

722 (l) Assisting with measuring vital signs.

723 (m) Assisting with colostomy bags.

724 (4) Assistance with self-administration does not include:

725 ~~(c) Administration of medications through intermittent~~
726 ~~positive pressure breathing machines or a nebulizer.~~

727 Section 12. Subsection (3) of section 429.27, Florida
728 Statutes, is amended to read:

729 429.27 Property and personal affairs of residents.—
 730 (3) A facility, upon mutual consent with the resident,
 731 shall provide for the safekeeping in the facility of personal
 732 effects not in excess of \$500 and funds of the resident not in
 733 excess of \$500 ~~\$200~~ cash, and shall keep complete and accurate
 734 records of all such funds and personal effects received. If a
 735 resident is absent from a facility for 24 hours or more, the
 736 facility may provide for the safekeeping of the resident's
 737 personal effects in excess of \$500.

738 Section 13. Paragraph (a) of subsection (3) and
 739 subsections (2), (5), and (6) of section 429.28, Florida
 740 Statutes, are amended to read:

741 429.28 Resident bill of rights.—

742 (2) The administrator of a facility shall ensure that a
 743 written notice of the rights, obligations, and prohibitions set
 744 forth in this part is posted in a prominent place in each
 745 facility and read or explained to residents who cannot read. The
 746 ~~This~~ notice must ~~shall~~ include the name, address, and telephone
 747 numbers of the local ombudsman council, the ~~and~~ central abuse
 748 hotline, and, if ~~when~~ applicable, Disability Rights Florida ~~the~~
 749 ~~Advocacy Center for Persons with Disabilities, Inc., and the~~
 750 ~~Florida local advocacy council~~, where complaints may be lodged.
 751 The notice must state that a complaint made to the Office of
 752 State Long-Term Care Ombudsman or a local long-term care
 753 ombudsman council, the names and identities of the residents
 754 involved in the complaint, and the identity of complainants are

755 kept confidential pursuant to s. 400.0077 and that retaliatory
 756 action cannot be taken against a resident for presenting
 757 grievances or for exercising any other resident right. The
 758 facility must ensure a resident's access to a telephone to call
 759 the local ombudsman council, central abuse hotline, and
 760 Disability Rights Florida Advocacy Center for Persons with
 761 Disabilities, Inc., and the Florida local advocacy council.

762 (3) (a) The agency shall conduct a survey to determine
 763 general compliance with facility standards and compliance with
 764 residents' rights as a prerequisite to initial licensure or
 765 licensure renewal. The agency shall adopt rules for uniform
 766 standards and criteria that will be used to determine compliance
 767 with facility standards and compliance with residents' rights.

768 (5) A ~~No~~ facility or employee of a facility may not serve
 769 notice upon a resident to leave the premises or take any other
 770 retaliatory action against any person who:

- 771 (a) Exercises any right set forth in this section.
- 772 (b) Appears as a witness in any hearing, inside or outside
 773 the facility.
- 774 (c) Files a civil action alleging a violation of the
 775 provisions of this part or notifies a state attorney or the
 776 Attorney General of a possible violation of such provisions.

777 (6) A ~~Any~~ facility that ~~which~~ terminates the residency of
 778 an individual who participated in activities specified in
 779 subsection (5) must ~~shall~~ show good cause in a court of
 780 competent jurisdiction. If good cause is not shown, the agency

781 shall impose a fine of \$2,500 in addition to any other penalty
782 assessed against the facility.

783 Section 14. Section 429.34, Florida Statutes, is amended
784 to read:

785 429.34 Right of entry and inspection.—

786 (1) In addition to the requirements of s. 408.811, any
787 duly designated officer or employee of the department, the
788 Department of Children and Families, the Medicaid Fraud Control
789 Unit of the Office of the Attorney General, the state or local
790 fire marshal, or a member of the state or local long-term care
791 ombudsman council has ~~shall have~~ the right to enter unannounced
792 upon and into the premises of any facility licensed pursuant to
793 this part in order to determine the state of compliance with ~~the~~
794 ~~provisions of~~ this part, part II of chapter 408, and applicable
795 rules. Data collected by the state or local long-term care
796 ombudsman councils or the state or local advocacy councils may
797 be used by the agency in investigations involving violations of
798 regulatory standards. A person specified in this section who
799 knows or has reasonable cause to suspect that a vulnerable adult
800 has been or is being abused, neglected, or exploited shall
801 immediately report such knowledge or suspicion to the central
802 abuse hotline pursuant to chapter 415.

803 (2) The agency shall inspect each licensed assisted living
804 facility at least once every 24 months to determine compliance
805 with this chapter and related rules. If an assisted living
806 facility is cited for a class I violation or two or more class

807 II violations arising from separate surveys within a 60-day
808 period or due to unrelated circumstances during the same survey,
809 the agency must conduct an additional licensure inspection
810 within 6 months.

811 Section 15. Subsection (2) of section 429.41, Florida
812 Statutes, is amended to read:

813 429.41 Rules establishing standards.—

814 (2) In adopting any rules pursuant to this part, the
815 department, in conjunction with the agency, shall make distinct
816 standards for facilities based upon facility size; the types of
817 care provided; the physical and mental capabilities and needs of
818 residents; the type, frequency, and amount of services and care
819 offered; and the staffing characteristics of the facility. Rules
820 developed pursuant to this section may ~~shall~~ not restrict the
821 use of shared staffing and shared programming in facilities that
822 are part of retirement communities that provide multiple levels
823 of care and otherwise meet the requirements of law and rule. If
824 a continuing care facility licensed under chapter 651 or a
825 retirement community offering multiple levels of care licenses a
826 building or part of a building designated for independent living
827 for assisted living, staffing requirements established in rule
828 apply only to residents who receive personal, limited nursing,
829 or extended congregate care services under this part. Such
830 facilities shall retain a log listing the names and unit number
831 for residents receiving these services. The log must be
832 available to surveyors upon request. Except for uniform

833 firesafety standards, the department shall adopt by rule
834 separate and distinct standards for facilities with 16 or fewer
835 beds and for facilities with 17 or more beds. The standards for
836 facilities with 16 or fewer beds must ~~shall~~ be appropriate for a
837 noninstitutional residential environment; however, ~~provided that~~
838 the structure may not be ~~is no~~ more than two stories in height
839 and all persons who cannot exit the facility unassisted in an
840 emergency must reside on the first floor. The department, in
841 conjunction with the agency, may make other distinctions among
842 types of facilities as necessary to enforce ~~the provisions of~~
843 this part. Where appropriate, the agency shall offer alternate
844 solutions for complying with established standards, based on
845 distinctions made by the department and the agency relative to
846 the physical characteristics of facilities and the types of care
847 offered ~~therein~~.

848 Section 16. Subsections (1) through (11) of section
849 429.52, Florida Statutes, are renumbered as subsections (2)
850 through (12), respectively, present subsections (5) and (9) are
851 amended, and a new subsection (1) is added to that section, to
852 read:

853 429.52 Staff training and educational programs; core
854 educational requirement.—

855 (1) Effective October 1, 2015, each new assisted living
856 facility employee who has not previously completed core training
857 must attend a preservice orientation provided by the facility
858 before interacting with residents. The preservice orientation

859 must be at least 2 hours in duration and cover topics that help
860 the employee provide responsible care and respond to the needs
861 of facility residents. Upon completion, the employee and the
862 administrator of the facility must sign a statement that the
863 employee completed the required preservice orientation. The
864 facility must keep the signed statement in the employee's
865 personnel record.

866 (6)~~(5)~~ Staff involved with the management of medications
867 and assisting with the self-administration of medications under
868 s. 429.256 must complete a minimum of 6 ~~4~~ additional hours of
869 training provided by a registered nurse, licensed pharmacist, or
870 department staff. The department shall establish by rule the
871 minimum requirements of this additional training.

872 (10)~~(9)~~ The training required by this section other than
873 the preservice orientation must ~~shall~~ be conducted by persons
874 registered with the department as having the requisite
875 experience and credentials to conduct the training. A person
876 seeking to register as a trainer must provide the department
877 with proof of completion of the minimum core training education
878 requirements, successful passage of the competency test
879 established under this section, and proof of compliance with the
880 continuing education requirement in subsection (5) ~~(4)~~.

881 Section 17. Section 429.55, Florida Statutes, is created
882 to read:

883 429.55 Consumer information website.—The Legislature finds
884 that consumers need additional information on the quality of

885 care and service in assisted living facilities in order to
886 select the best facility for themselves or their loved ones.
887 Therefore, the Agency for Health Care Administration shall
888 create content that is easily accessible through the home page
889 of the agency's website either directly or indirectly through
890 links to one or more other established websites of the agency's
891 choosing. The website must be searchable by facility name,
892 license type, city, or zip code. By November 1, 2015, the agency
893 shall include all content in its possession on the website and
894 add content when received from facilities. At a minimum, the
895 content must include:

896 (1) Information on each licensed assisted living facility,
897 including, but not limited to:

898 (a) The name and address of the facility.

899 (b) The name of the owner or operator of the facility.

900 (c) The number and type of licensed beds in the facility.

901 (d) The types of licenses held by the facility.

902 (e) The facility's license expiration date and status.

903 (f) The total number of clients that the facility is
904 licensed to serve and the most recently available occupancy
905 levels.

906 (g) The number of private and semiprivate rooms offered.

907 (h) The bed-hold policy.

908 (i) The religious affiliation, if any, of the assisted
909 living facility.

910 (j) The languages spoken by the staff.

- 911 (k) Availability of nurses.
- 912 (l) Forms of payment accepted, including, but not limited
913 to, Medicaid, Medicaid long-term managed care, private
914 insurance, health maintenance organization, United States
915 Department of Veterans Affairs, CHAMPUS program, or workers'
916 compensation coverage.
- 917 (m) Indication if the licensee is operating under
918 bankruptcy protection.
- 919 (n) Recreational and other programs available.
- 920 (o) Special care units or programs offered.
- 921 (p) Whether the facility is a part of a retirement
922 community that offers other services pursuant to this part or
923 part III of this chapter, part II or part III of chapter 400, or
924 chapter 651.
- 925 (q) Links to the State Long-Term Care Ombudsman Program
926 website and the program's statewide toll-free telephone number.
- 927 (r) Links to the websites of the providers.
- 928 (s) Other relevant information that the agency currently
929 collects.
- 930 (2) Survey and violation information for the facility,
931 including a list of the facility's violations committed during
932 the previous 60 months, which on July 1, 2015, may include
933 violations committed on or after July 1, 2010. The list shall be
934 updated monthly and include for each violation:
- 935 (a) A summary of the violation, including all licensure,
936 revisit, and complaint survey information, presented in a manner

CS/HB 1001

2015

937 understandable by the general public.

938 (b) Any sanctions imposed by final order.

939 (c) The date the corrective action was confirmed by the
940 agency.

941 (3) Links to inspection reports that the agency has on
942 file.

943 (4) The agency may adopt rules to administer this section.

944 Section 18. This act shall take effect July 1, 2015.