

FOR CONSIDERATION By the Committee on 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 the
11 community living support plan to be updated when there
12 is a significant change to the mental health
13 resident's behavioral health; requiring the case
14 manager assigned to a mental health resident of an
15 assisted living facility that holds a limited mental
16 health license to keep a record of the date and time
17 of face-to-face interactions with the resident and to
18 make the record available to the responsible entity
19 for inspection; requiring that the record be
20 maintained for a specified time; requiring the
21 responsible entity to ensure that there is adequate
22 and consistent monitoring and enforcement of community
23 living support plans and cooperative agreements and
24 that concerns are reported to the appropriate
25 regulatory oversight organization under certain
26 circumstances; amending s. 400.0074, F.S.; providing
27 that an administrative assessment conducted by a local
28 council be comprehensive in nature and focus on
29 factors affecting the rights, health, safety, and

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30 welfare of the residents of a nursing home; requiring
31 a local council to conduct an exit consultation with
32 the facility administrator or administrator designee
33 to discuss issues and concerns and make
34 recommendations for improvement; amending s. 400.0078,
35 F.S.; requiring that residents of long-term care
36 facilities be informed about the confidentiality of
37 the subject matter and identity of the complainant of
38 a complaint received by the State Long-Term Care
39 Ombudsman Program; amending s. 429.07, F.S.; providing
40 that an extended congregate care license is issued to
41 certain facilities that have been licensed as assisted
42 living facilities under certain circumstances;
43 providing the purpose of an extended congregate care
44 license; providing that the initial extended
45 congregate care license of an assisted living facility
46 is provisional under certain circumstances; requiring
47 the licensee to notify the Agency for Health Care
48 Administration whenever it accepts a resident who
49 qualifies for extended congregate care services;
50 requiring the agency to inspect the facility for
51 compliance with the requirements of an extended
52 congregate care license; authorizing the agency to
53 waive one of the required yearly monitoring visits
54 under certain circumstances; authorizing the agency to
55 deny or revoke a facility's extended congregate care
56 license for certain reasons or on certain grounds;
57 requiring a registered nurse representing the agency
58 to visit the facility at least annually, rather than

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59 twice a year, to monitor residents who are receiving
60 limited nursing services; providing that the agency's
61 monitoring visits may be in conjunction with other
62 agency inspections; authorizing the agency to waive
63 one of the required yearly monitoring visits for
64 certain facilities; amending s. 429.075, F.S.;

65 requiring an assisted living facility that serves one
66 or more mental health residents to obtain a limited
67 mental health license; amending s. 429.14, F.S.;

68 authorizing the agency to deny, revoke, or suspend a
69 license of an assisted living facility for a negligent
70 act of any facility staff which seriously affects the
71 health, safety, or welfare of a resident; requiring
72 the agency to deny or revoke the license of an
73 assisted living facility under certain circumstances;

74 requiring the agency to impose an immediate moratorium
75 on the license of an assisted living facility under
76 certain circumstances; deleting a provision requiring
77 the agency to provide a list of facilities with
78 denied, suspended, or revoked licenses to the
79 Department of Business and Professional Regulation;

80 amending s. 429.178, F.S.; conforming cross-
81 references; amending s. 429.19, F.S.; revising the
82 amounts and uses of administrative fines; requiring
83 the agency to levy a fine for violations that are
84 corrected before an inspection if noncompliance
85 occurred within a specified period of time; deleting
86 factors that the agency is required to consider to
87 determine penalties and fines; amending s. 429.28,

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88 F.S.; requiring residents of facilities to be informed
89 about the confidentiality of the subject matter and
90 identity of the resident and complainant of a
91 complaint made to the State Long-Term Care Ombudsman
92 Program; providing that a facility that terminates an
93 individual's residency is fined if good cause is not
94 shown in court; amending s. 429.34, F.S.; requiring
95 certain persons to report elder abuse in assisted
96 living facilities; requiring the agency to regularly
97 inspect every licensed assisted living facility;
98 requiring the agency to conduct more frequent
99 inspections under certain circumstances; requiring the
100 licensee to pay a fee for the cost of additional
101 inspections; requiring the agency to adjust the fee;
102 amending s. 429.52, F.S.; requiring each newly hired
103 employee of an assisted living facility to attend a
104 preservice orientation provided by the assisted living
105 facility; requiring the employee and administrator to
106 sign an affidavit upon completion of the preservice
107 orientation; requiring the assisted living facility to
108 maintain the signed affidavit in each employee's work
109 file; conforming a cross-reference; requiring the
110 Agency for Health Care Administration to study the
111 reliability of facility surveys and submit to the
112 Governor and the Legislature its findings and
113 recommendations; requiring the agency to propose a
114 rating system of assisted living facilities for
115 consumers and create content for the agency's website
116 that makes available to consumers information

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117 regarding assisted living facilities; providing
118 criteria for the content; providing an effective date.

119

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

121

122 Section 1. Section 394.4574, Florida Statutes, is amended
123 to read:

124 394.4574 ~~Department~~ Responsibilities for coordination of
125 services for a mental health resident who resides in an assisted
126 living facility that holds a limited mental health license.—

127 (1) As used in this section, the term "mental health
128 resident" ~~"mental health resident,"~~ for purposes of this
129 ~~section,~~ means an individual who receives social security
130 disability income due to a mental disorder as determined by the
131 Social Security Administration or receives supplemental security
132 income due to a mental disorder as determined by the Social
133 Security Administration and receives optional state
134 supplementation.

135 (2) Medicaid prepaid behavioral health plans are
136 responsible for enrolled mental health residents, and managing
137 entities under contract with the department are responsible for
138 mental health residents who are not enrolled with a Medicaid
139 prepaid behavioral health plan. Each responsible entity shall
140 ~~The department must~~ ensure that:

141 (a) A mental health resident has been assessed by a
142 psychiatrist, clinical psychologist, clinical social worker, or
143 psychiatric nurse, or an individual who is supervised by one of
144 these professionals, and determined to be appropriate to reside
145 in an assisted living facility. The documentation must be

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146 provided to the administrator of the facility within 30 days
147 after the mental health resident has been admitted to the
148 facility. An evaluation completed upon discharge from a state
149 mental hospital meets the requirements of this subsection
150 related to appropriateness for placement as a mental health
151 resident if it was completed within 90 days before ~~prior to~~
152 admission to the facility.

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

166 (c) The community living support plan, as defined in s.
167 429.02, has been prepared by a mental health resident and a
168 mental health case manager of that resident in consultation with
169 the administrator of the facility or the administrator's
170 designee. The plan must be provided to the administrator of the
171 assisted living facility with a limited mental health license in
172 which the mental health resident lives. The support plan and the
173 agreement may be in one document.

174 (d) The assisted living facility with a limited mental

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175 health license is provided with documentation that the
176 individual meets the definition of a mental health resident.

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

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

195 (g) Concerns are reported to the appropriate regulatory
196 oversight organization if a regulated provider fails to deliver
197 appropriate services or otherwise acts in a manner that has the
198 potential to result in harm to the resident.

199 (3) The Secretary of Children and Family Services, in
200 consultation with the Agency for Health Care Administration,
201 shall ~~annually~~ require each district administrator to develop,
202 with community input, a detailed annual plan that demonstrates
203 ~~detailed plans that demonstrate~~ how the district will ensure the

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204 provision of state-funded mental health and substance abuse
205 treatment services to residents of assisted living facilities
206 that hold a limited mental health license. These plans must be
207 consistent with the substance abuse and mental health district
208 plan developed pursuant to s. 394.75 and must address case
209 management services; access to consumer-operated drop-in
210 centers; access to services during evenings, weekends, and
211 holidays; supervision of the clinical needs of the residents;
212 and access to emergency psychiatric care.

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

216 400.0074 Local ombudsman council onsite administrative
217 assessments.—

218 (1) In addition to any specific investigation conducted
219 pursuant to a complaint, the local council shall conduct, at
220 least annually, an onsite administrative assessment of each
221 nursing home, assisted living facility, and adult family-care
222 home within its jurisdiction. This administrative assessment
223 must be comprehensive in nature and must ~~shall~~ focus on factors
224 affecting the rights, health, safety, and welfare of the
225 residents. Each local council is encouraged to conduct a similar
226 onsite administrative assessment of each additional long-term
227 care facility within its jurisdiction.

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

230 (h) The local council shall conduct an exit consultation
231 with the facility administrator or administrator designee to
232 discuss issues and concerns and make recommendations for

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233 improvement, if any.

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

236 400.0078 Citizen access to State Long-Term Care Ombudsman
237 Program services.—

238 (2) ~~Every resident or representative of a resident shall~~
239 ~~receive,~~ Upon admission to a long-term care facility, each
240 resident or representative of a resident must receive
241 information regarding the purpose of the State Long-Term Care
242 Ombudsman Program, the statewide toll-free telephone number for
243 receiving complaints, the confidentiality of the subject matter
244 of a complaint and the complainant's name and identity, and
245 other relevant information regarding how to contact the program.
246 Residents or their representatives must be furnished additional
247 copies of this information upon request.

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

250 429.07 License required; fee.—

251 (3) In addition to the requirements of s. 408.806, each
252 license granted by the agency must state the type of care for
253 which the license is granted. Licenses shall be issued for one
254 or more of the following categories of care: standard, extended
255 congregate care, limited nursing services, or limited mental
256 health.

257 (b) An extended congregate care license shall be issued to
258 facilities that have been licensed as assisted living facilities
259 for 2 or more years and that provide ~~providing,~~ directly or
260 through contract, services beyond those authorized in paragraph
261 (a), including services performed by persons licensed under part

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262 I of chapter 464 and supportive services, as defined by rule, to
263 persons who would otherwise be disqualified from continued
264 residence in a facility licensed under this part. The purpose of
265 an extended congregate care license is to enable residents to
266 age in place in a residential environment despite mental or
267 physical limitations that might otherwise disqualify them from
268 residency in a facility licensed under this part.

269 1. In order for extended congregate care services to be
270 provided, the agency must first determine that all requirements
271 established in law and rule are met and must specifically
272 designate, on the facility's license, that such services may be
273 provided and whether the designation applies to all or part of
274 the facility. Such designation may be made at the time of
275 initial licensure or relicensure, or upon request in writing by
276 a licensee under this part and part II of chapter 408. The
277 notification of approval or the denial of the request shall be
278 made in accordance with part II of chapter 408. Existing
279 facilities qualifying to provide extended congregate care
280 services must have maintained a standard license and may not
281 have been subject to administrative sanctions during the
282 previous 2 years, or since initial licensure if the facility has
283 been licensed for less than 2 years, for any of the following
284 reasons:

- 285 a. A class I or class II violation;
- 286 b. Three or more repeat or recurring class III violations
287 of identical or similar resident care standards from which a
288 pattern of noncompliance is found by the agency;
- 289 c. Three or more class III violations that were not
290 corrected in accordance with the corrective action plan approved

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291 by the agency;

292 d. Violation of resident care standards which results in
293 requiring the facility to employ the services of a consultant
294 pharmacist or consultant dietitian;

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

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

301 2. If an assisted living facility has been licensed for
302 less than 2 years, the initial extended congregate care license
303 must be provisional and may not exceed 6 months. Within the
304 first 3 months after the provisional license is issued, the
305 licensee shall notify the agency when it has admitted an
306 extended congregate care resident, after which an unannounced
307 inspection shall be made to determine compliance with
308 requirements of an extended congregate care license. If the
309 licensee demonstrates compliance with all of the requirements of
310 an extended congregate care license during the inspection, the
311 licensee shall be issued an extended congregate care license. In
312 addition to sanctions authorized under this part, if violations
313 are found during the inspection and the licensee fails to
314 demonstrate compliance with all assisted living requirements
315 during a followup inspection, the licensee shall immediately
316 suspend extended congregate care services, and the provisional
317 extended congregate care license expires.

318 ~~3.2.~~ A facility that is licensed to provide extended
319 congregate care services shall maintain a written progress

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320 report on each person who receives services which describes the
321 type, amount, duration, scope, and outcome of services that are
322 rendered and the general status of the resident's health. A
323 registered nurse, or appropriate designee, representing the
324 agency shall visit the facility at least twice a year ~~quarterly~~
325 to monitor residents who are receiving extended congregate care
326 services and to determine if the facility is in compliance with
327 this part, part II of chapter 408, and relevant rules. One of
328 the visits may be in conjunction with the regular survey. The
329 monitoring visits may be provided through contractual
330 arrangements with appropriate community agencies. A registered
331 nurse shall serve as part of the team that inspects the
332 facility. The agency may waive one of the required yearly
333 monitoring visits for a facility ~~that has been licensed for at~~
334 ~~least 24 months to provide extended congregate care services,~~
335 ~~if, during the inspection, the registered nurse determines that~~
336 ~~extended congregate care services are being provided~~
337 ~~appropriately, and if the facility has held an extended~~
338 ~~congregate care license during the last 24 months, has had no~~
339 ~~class I or class II violations, has had and no uncorrected class~~
340 ~~III violations, and has had no confirmed ombudsman council~~
341 ~~complaints that resulted in a citation for licensure. The agency~~
342 ~~must first consult with the long-term care ombudsman council for~~
343 ~~the area in which the facility is located to determine if any~~
344 ~~complaints have been made and substantiated about the quality of~~
345 ~~services or care. The agency may not waive one of the required~~
346 ~~yearly monitoring visits if complaints have been made and~~
347 ~~substantiated.~~

348 4.3. A facility that is licensed to provide extended

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349 congregate care services must:

350 a. Demonstrate the capability to meet unanticipated
351 resident service needs.

352 b. Offer a physical environment that promotes a homelike
353 setting, provides for resident privacy, promotes resident
354 independence, and allows sufficient congregate space as defined
355 by rule.

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

359 d. Adopt and follow policies and procedures that maximize
360 resident independence, dignity, choice, and decisionmaking to
361 permit residents to age in place, so that moves due to changes
362 in functional status are minimized or avoided.

363 e. Allow residents or, if applicable, a resident's
364 representative, designee, surrogate, guardian, or attorney in
365 fact to make a variety of personal choices, participate in
366 developing service plans, and share responsibility in
367 decisionmaking.

368 f. Implement the concept of managed risk.

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

371 h. In addition to the training mandated in s. 429.52,
372 provide specialized training as defined by rule for facility
373 staff.

374 5.4. A facility that is licensed to provide extended
375 congregate care services is exempt from the criteria for
376 continued residency set forth in rules adopted under s. 429.41.
377 A licensed facility must adopt its own requirements within

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378 guidelines for continued residency set forth by rule. However,
379 the facility may not serve residents who require 24-hour nursing
380 supervision. A licensed facility that provides extended
381 congregate care services must also provide each resident with a
382 written copy of facility policies governing admission and
383 retention.

384 ~~5. The primary purpose of extended congregate care services~~
385 ~~is to allow residents, as they become more impaired, the option~~
386 ~~of remaining in a familiar setting from which they would~~
387 ~~otherwise be disqualified for continued residency. A facility~~
388 ~~licensed to provide extended congregate care services may also~~
389 ~~admit an individual who exceeds the admission criteria for a~~
390 ~~facility with a standard license, if the individual is~~
391 ~~determined appropriate for admission to the extended congregate~~
392 ~~care facility.~~

393 6. Before the admission of an individual to a facility
394 licensed to provide extended congregate care services, the
395 individual must undergo a medical examination as provided in s.
396 429.26(4) and the facility must develop a preliminary service
397 plan for the individual.

398 7. If ~~When~~ a facility can no longer provide or arrange for
399 services in accordance with the resident's service plan and
400 needs and the facility's policy, the facility must ~~shall~~ make
401 arrangements for relocating the person in accordance with s.
402 429.28(1)(k).

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

405
406 The agency may deny or revoke a facility's extended congregate

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407 care license for not meeting the standards of an extended
408 congregate care license or for any of the grounds listed in this
409 subsection.

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

413 1. In order for limited nursing services to be provided in
414 a facility licensed under this part, the agency must first
415 determine that all requirements established in law and rule are
416 met and must specifically designate, on the facility's license,
417 that such services may be provided. Such designation may be made
418 at the time of initial licensure or licensure renewal
419 ~~relicensure~~, or upon request in writing by a licensee under this
420 part and part II of chapter 408. Notification of approval or
421 denial of such request shall be made in accordance with part II
422 of chapter 408. An existing facility that qualifies ~~facilities~~
423 ~~qualifying~~ to provide limited nursing services must ~~shall~~ have
424 maintained a standard license and may not have been subject to
425 administrative sanctions that affect the health, safety, and
426 welfare of residents for the previous 2 years or since initial
427 licensure if the facility has been licensed for less than 2
428 years.

429 2. A facility ~~Facilities~~ that is ~~are~~ licensed to provide
430 limited nursing services shall maintain a written progress
431 report on each person who receives such nursing services. The
432 ~~which~~ report must describe ~~describes~~ the type, amount, duration,
433 scope, and outcome of services that are rendered and the general
434 status of the resident's health. A registered nurse representing
435 the agency shall visit the facility ~~such facilities~~ at least

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436 annually ~~twice a year~~ to monitor residents who are receiving
437 limited nursing services and to determine if the facility is in
438 compliance with applicable provisions of this part, part II of
439 chapter 408, and related rules. The monitoring visits may be
440 provided through contractual arrangements with appropriate
441 community agencies. A registered nurse shall also serve as part
442 of the team that inspects such facility. Visits may be in
443 conjunction with other agency inspections. The agency may waive
444 one of the required yearly monitoring visits for a facility that
445 has:

446 a. A limited nursing services license for at least 24
447 months;

448 b. No class I or class II violations and no uncorrected
449 class III violations; and

450 c. No confirmed ombudsman council complaints that resulted
451 in a citation for licensure.

452 3. A person who receives limited nursing services under
453 this part must meet the admission criteria established by the
454 agency for assisted living facilities. When a resident no longer
455 meets the admission criteria for a facility licensed under this
456 part, arrangements for relocating the person shall be made in
457 accordance with s. 429.28(1)(k), unless the facility is licensed
458 to provide extended congregate care services.

459 Section 5. Section 429.075, Florida Statutes, is amended to
460 read:

461 429.075 Limited mental health license.—An assisted living
462 facility that serves one ~~three~~ or more mental health residents
463 must obtain a limited mental health license.

464 (1) To obtain a limited mental health license, a facility

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465 must hold a standard license as an assisted living facility,
466 must not have any current uncorrected deficiencies or
467 violations, and must ensure that, within 6 months after
468 receiving a limited mental health license, the facility
469 administrator and the staff of the facility who are in direct
470 contact with mental health residents must complete training of
471 no less than 6 hours related to their duties. Such designation
472 may be made at the time of initial licensure or relicensure or
473 upon request in writing by a licensee under this part and part
474 II of chapter 408. Notification of approval or denial of such
475 request shall be made in accordance with this part, part II of
476 chapter 408, and applicable rules. This training must ~~will~~ be
477 provided by or approved by the Department of Children and Family
478 Services.

479 (2) A facility that is ~~Facilities~~ licensed to provide
480 services to mental health residents must ~~shall~~ provide
481 appropriate supervision and staffing to provide for the health,
482 safety, and welfare of such residents.

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

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

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

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

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

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

506 Section 6. Section 429.14, Florida Statutes, is amended to
507 read:

508 429.14 Administrative penalties.—

509 (1) In addition to the requirements of part II of chapter
510 408, the agency may deny, revoke, and suspend any license issued
511 under this part and impose an administrative fine in the manner
512 provided in chapter 120 against a licensee for a violation of
513 any provision of this part, part II of chapter 408, or
514 applicable rules, or for any of the following actions by a
515 licensee, for the actions of any person subject to level 2
516 background screening under s. 408.809, or for the actions of any
517 facility staff ~~employee~~:

518 (a) A ~~An intentional or~~ negligent act seriously affecting
519 the health, safety, or welfare of a resident of the facility.

520 (b) A ~~The~~ determination by the agency that the owner lacks
521 the financial ability to provide continuing adequate care to
522 residents.

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523 (c) Misappropriation or conversion of the property of a
524 resident of the facility.

525 (d) Failure to follow the criteria and procedures provided
526 under part I of chapter 394 relating to the transportation,
527 voluntary admission, and involuntary examination of a facility
528 resident.

529 (e) A citation of any of the following deficiencies as
530 specified in s. 429.19:

531 1. One or more cited class I deficiencies.

532 2. Three or more cited class II deficiencies.

533 3. Five or more cited class III deficiencies that have been
534 cited on a single survey and have not been corrected within the
535 times specified.

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

538 (g) Violation of a moratorium.

539 (h) Failure of the license applicant, the licensee during
540 relicensure, or a licensee that holds a provisional license to
541 meet the minimum license requirements of this part, or related
542 rules, at the time of license application or renewal.

543 (i) An intentional or negligent life-threatening act in
544 violation of the uniform firesafety standards for assisted
545 living facilities or other firesafety standards which ~~that~~
546 threatens the health, safety, or welfare of a resident of a
547 facility, as communicated to the agency by the local authority
548 having jurisdiction or the State Fire Marshal.

549 (j) Knowingly operating any unlicensed facility or
550 providing without a license any service that must be licensed
551 under this chapter or chapter 400.

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

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

559 (3) The agency may deny or revoke a license of an ~~to any~~
560 applicant or controlling interest as defined in part II of
561 chapter 408 which has or had a 25-percent or greater financial
562 or ownership interest in any other facility that is licensed
563 under this part, or in any entity licensed by this state or
564 another state to provide health or residential care, if that
565 ~~which~~ facility or entity during the 5 years prior to the
566 application for a license closed due to financial inability to
567 operate; had a receiver appointed or a license denied,
568 suspended, or revoked; was subject to a moratorium; or had an
569 injunctive proceeding initiated against it.

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

572 (a) A resident's health, safety, or welfare has been
573 seriously affected by an intentional act of facility staff;

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

577 (c) The facility is conditionally licensed for 180 or more
578 consecutive days;

579 (d) The facility is cited for two or more class I
580 violations arising from unrelated circumstances during the same

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581 survey or investigation; or

582 (e) The facility is cited for two or more class I
583 violations arising from separate surveys or investigations
584 within a 2-year period that has two or more class I violations
585 that are similar or identical to violations identified by the
586 agency during a survey, inspection, monitoring visit, or
587 complaint investigation occurring within the previous 2 years.

588 (5) An action taken by the agency to suspend, deny, or
589 revoke a facility's license under this part or part II of
590 chapter 408, in which the agency claims that the facility owner
591 or an employee of the facility has threatened the health,
592 safety, or welfare of a resident of the facility must be heard
593 by the Division of Administrative Hearings of the Department of
594 Management Services within 120 days after receipt of the
595 facility's request for a hearing, unless that time limitation is
596 waived by both parties. The administrative law judge shall ~~must~~
597 render a decision within 30 days after receipt of a proposed
598 recommended order.

599 (6) The agency shall impose an immediate moratorium, as
600 provided under s. 408.814, on an assisted living facility that
601 fails to provide the agency access to the facility or prohibits
602 the agency from conducting a regulatory inspection. The licensee
603 may not restrict agency staff in accessing and copying records
604 or in conducting confidential interviews with facility staff or
605 any individual who receives services from the facility ~~provide~~
606 ~~to the Division of Hotels and Restaurants of the Department of~~
607 ~~Business and Professional Regulation, on a monthly basis, a list~~
608 ~~of those assisted living facilities that have had their licenses~~
609 ~~denied, suspended, or revoked or that are involved in an~~

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610 ~~appellate proceeding pursuant to s. 120.60 related to the~~
611 ~~denial, suspension, or revocation of a license.~~

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

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

617 429.178 Special care for persons with Alzheimer's disease
618 or other related disorders.—

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

627 (b) A direct caregiver who is employed by a facility that
628 provides special care for residents with Alzheimer's disease or
629 other related disorders, and who provides direct care to such
630 residents, must complete the required initial training and 4
631 additional hours of training developed or approved by the
632 department. The training must ~~shall~~ be completed within 9 months
633 after beginning employment and satisfy ~~shall satisfy~~ the core
634 training requirements of s. 429.52(3)(g) ~~s. 429.52(2)(g)~~.

635 Section 8. Section 429.19, Florida Statutes, is amended to
636 read:

637 429.19 Violations; imposition of administrative fines;
638 grounds.—

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639 (1) In addition to the requirements of part II of chapter
640 408, the agency shall impose an administrative fine in the
641 manner provided in chapter 120 for the violation of any
642 provision of this part, part II of chapter 408, and applicable
643 rules by an assisted living facility, for the actions of any
644 person subject to level 2 background screening under s. 408.809,
645 for the actions of any facility employee, or for an intentional
646 or negligent act seriously affecting the health, safety, or
647 welfare of a resident of the facility.

648 (2) Each violation of this part and adopted rules must
649 ~~shall~~ be classified according to the nature of the violation and
650 the gravity of its probable effect on facility residents. The
651 agency shall indicate the classification on the written notice
652 of the violation as follows:

653 (a) Class "I" violations are defined in s. 408.813. The
654 agency shall impose an administrative fine of \$7,500 for each a
655 cited class I violation in a facility that is licensed for fewer
656 than 100 beds at the time of the violation in an amount not less
657 than \$5,000 and not exceeding \$10,000 for each violation. The
658 agency shall impose an administrative fine of \$11,250 for each
659 cited class I violation in a facility that is licensed for 100
660 or more beds at the time of the violation. If the noncompliance
661 occurs within the prior 12 months, the fine must be levied for
662 violations that are corrected before an inspection.

663 (b) Class "II" violations are defined in s. 408.813. The
664 agency shall impose an administrative fine of \$3,000 for each a
665 cited class II violation in a facility that is licensed for
666 fewer than 100 beds at the time of the violation in an amount
667 not less than \$1,000 and not exceeding \$5,000 for each

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668 violation. The agency shall impose an administrative fine of
669 \$4,500 for each cited class II violation in a facility that is
670 licensed for 100 or more beds at the time of the violation.

671 (c) Class "III" violations are defined in s. 408.813. The
672 agency shall impose an administrative fine of \$750 for each a
673 cited class III violation in a facility that is licensed for
674 fewer than 100 beds at the time of the violation ~~in an amount~~
675 ~~not less than \$500 and not exceeding \$1,000 for each violation.~~
676 The agency shall impose an administrative fine of \$1,125 for
677 each cited class III violation in a facility that is licensed
678 for 100 or more beds at the time of the violation.

679 (d) Class "IV" violations are defined in s. 408.813. The
680 agency shall impose an administrative fine of \$150 for each a
681 cited class IV violation in a facility that is licensed for
682 fewer than 100 beds at the time of the violation ~~in an amount~~
683 ~~not less than \$100 and not exceeding \$200 for each violation.~~
684 The agency shall impose an administrative fine of \$225 for each
685 cited class IV violation in a facility that is licensed for 100
686 or more beds at the time of the violation.

687 (e) Any fine imposed for class I and class II violations
688 must be doubled if a facility was previously cited for one or
689 more class I or class II violations during the agency's last
690 licensure inspection or any inspection or complaint
691 investigation since the last licensure inspection.

692 (f) Notwithstanding any other provision of law, a fine must
693 be imposed for each class III and class IV violation, regardless
694 of correction, if a facility was previously cited for one or
695 more class III or class IV violations during the agency's last
696 licensure inspection or any inspection or complaint

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697 investigation since the last licensure inspection, for the same
698 regulatory violation. A fine imposed for class III or class IV
699 violations must be doubled if a facility was previously cited
700 for one or more class III or class IV violations during the
701 agency's last two licensure inspections for the same regulatory
702 violation.

703 (g) In addition to the fines listed in paragraphs (a)-(d),
704 the agency shall impose an administrative fine of \$500 if a
705 facility is found not to be in compliance with the background
706 screening requirements as provided in s. 408.809.

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

710 ~~(a) The gravity of the violation, including the probability~~
711 ~~that death or serious physical or emotional harm to a resident~~
712 ~~will result or has resulted, the severity of the action or~~
713 ~~potential harm, and the extent to which the provisions of the~~
714 ~~applicable laws or rules were violated.~~

715 ~~(b) Actions taken by the owner or administrator to correct~~
716 ~~violations.~~

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

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

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

721 (3)(4) Each day of continuing violation after the date
722 established by the agency fixed for correction termination of
723 the violation, as ordered by the agency, constitutes an
724 additional, separate, and distinct violation.

725 (4)(5) An Any action taken to correct a violation shall be

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726 documented in writing by the owner or administrator of the
727 facility and verified through followup visits by agency
728 personnel. The agency may impose a fine and, in the case of an
729 owner-operated facility, revoke or deny a facility's license
730 when a facility administrator fraudulently misrepresents action
731 taken to correct a violation.

732 (5)~~(6)~~ A Any facility whose owner fails to apply for a
733 change-of-ownership license in accordance with part II of
734 chapter 408 and operates the facility under the new ownership is
735 subject to a fine of \$5,000.

736 (6)~~(7)~~ In addition to any administrative fines imposed, the
737 agency may assess a survey fee, equal to the lesser of one half
738 of the facility's biennial license and bed fee or \$500, to cover
739 the cost of conducting initial complaint investigations that
740 result in the finding of a violation that was the subject of the
741 complaint or monitoring visits conducted under s. 429.28(3)(c)
742 to verify the correction of the violations.

743 (7)~~(8)~~ During an inspection, the agency shall make a
744 reasonable attempt to discuss each violation with the owner or
745 administrator of the facility, prior to written notification.

746 (8)~~(9)~~ The agency shall develop and disseminate an annual
747 list of all facilities sanctioned or fined for violations of
748 state standards, the number and class of violations involved,
749 the penalties imposed, and the current status of cases. The list
750 shall be disseminated, at no charge, to the Department of
751 Elderly Affairs, the Department of Health, the Department of
752 Children and Family Services, the Agency for Persons with
753 Disabilities, the area agencies on aging, the Florida Statewide
754 Advocacy Council, and the state and local ombudsman councils.

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755 The Department of Children and Family Services shall disseminate
756 the list to service providers under contract to the department
757 who are responsible for referring persons to a facility for
758 residency. The agency may charge a fee commensurate with the
759 cost of printing and postage to other interested parties
760 requesting a copy of this list. This information may be provided
761 electronically or through the agency's Internet site.

762 Section 9. Subsections (2) and (6) of section 429.28,
763 Florida Statutes, are amended to read:

764 429.28 Resident bill of rights.—

765 (2) The administrator of a facility shall ensure that a
766 written notice of the rights, obligations, and prohibitions set
767 forth in this part is posted in a prominent place in each
768 facility and read or explained to residents who cannot read. The
769 ~~This~~ notice must ~~shall~~ include the name, address, and telephone
770 numbers of the local ombudsman council and central abuse hotline
771 and, if ~~when~~ applicable, the Advocacy Center for Persons with
772 Disabilities, Inc., and the Florida local advocacy council,
773 where complaints may be lodged. The notice must state that the
774 subject matter of a complaint made to the Office of State Long-
775 Term Care Ombudsman or a local long-term care ombudsman council
776 and the names and identities of the residents involved in the
777 complaint and the complainants are kept confidential pursuant to
778 s. 400.0077. The facility must ensure a resident's access to a
779 telephone to call the local ombudsman council, central abuse
780 hotline, Advocacy Center for Persons with Disabilities, Inc.,
781 and the Florida local advocacy council.

782 (6) A ~~Any~~ facility that ~~which~~ terminates the residency of
783 an individual who participated in activities specified in

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784 subsection (5) must ~~shall~~ show good cause in a court of
785 competent jurisdiction. If good cause is not shown, the agency
786 shall impose a fine of \$2,500 in addition to any other penalty
787 assessed against the facility.

788 Section 10. Section 429.34, Florida Statutes, is amended to
789 read:

790 429.34 Right of entry and inspection.—

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

808 (2) Each licensed assisted living facility must be
809 inspected by the agency at least once every 24 months to
810 determine compliance with this chapter and related rules. If an
811 assisted living facility is cited for one or more class I
812 violations or two or more class II violations arising from

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813 separate surveys within a 60-day period or due to unrelated
814 circumstances during the same survey, the agency must conduct an
815 additional licensure inspection within 6 months. In addition to
816 any fines imposed on the facility under s. 429.19, the licensee
817 must pay a fee for the cost of the additional inspection
818 equivalent to the standard assisted living facility license and
819 per-bed fees, without exception for beds designated for
820 recipients of optional state supplementation. The agency shall
821 adjust the fee in accordance with s. 408.805.

822 Section 11. Present subsections (1) through (11) of section
823 429.52, Florida Statutes, are redesignated as subsections (2)
824 through (12), respectively, a new subsection (1) is added to
825 that section, and present subsection (9) of that section is
826 amended, to read:

827 429.52 Staff training and educational programs; core
828 educational requirement.—

829 (1) Effective October 1, 2013, each new assisted living
830 facility employee who has not previously completed core training
831 must attend a preservice orientation provided by the facility
832 before interacting with residents. The preservice orientation
833 must be at least 2 hours in duration and cover topics that help
834 the employee provide responsible care and respond to the needs
835 of residents of the facility. Upon completion, the employee and
836 the administrator of the facility must sign an affidavit stating
837 that the employee completed the required preservice orientation.
838 The facility must keep the affidavit in the employee's work
839 file.

840 (10)~~(9)~~ The training required by this section must ~~shall~~ be
841 conducted by persons registered with the department as having

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842 the requisite experience and credentials to conduct the
843 training. A person seeking to register as a trainer must provide
844 the department with proof of completion of the minimum core
845 training education requirements, successful passage of the
846 competency test established under this section, and proof of
847 compliance with the continuing education requirement in
848 subsection (5)~~(4)~~.

849 Section 12. The Legislature finds that consistent
850 regulation of assisted living facilities benefits residents and
851 operators of such facilities. To determine whether surveys are
852 consistent between surveys and surveyors, the Agency for Health
853 Care Administration shall conduct a study of intersurveyor
854 reliability for assisted living facilities. By November 1, 2013,
855 the agency shall report to the Governor, the President of the
856 Senate, and the Speaker of the House of Representatives its
857 findings and make any recommendations to improve intersurveyor
858 reliability.

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

864 (1) Propose a rating system for assisted living facilities
865 similar to that used for nursing homes. The proposal must
866 include, but is not limited to, the data elements to be used,
867 the method of collecting the data, the method of determining the
868 rating, an estimate of the initial and ongoing costs of a rating
869 system to both the agency and assisted living facilities, and a
870 timetable for the implementation of the rating system for

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871 assisted living facilities. The agency shall submit its proposal
872 to the Governor, the President of the Senate, and the Speaker of
873 the House of Representatives by November 1, 2013.

874 (2) By January 1, 2014, create a content that is easily
875 accessible through the front page of the agency's website. At a
876 minimum, the content must include:

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

879 1. The name and address of the facility.

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

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

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

883 5. Other relevant information that the agency currently
884 collects.

885 (b) A list of the facility's cited violations and a summary
886 of each violation which is presented in an understandable manner
887 to the general public.

888 (c) Links to inspection reports that the agency has on
889 file.

890 (d) A monitored comment page, maintained by the agency,
891 which allows citizens to anonymously comment on assisted living
892 facilities that are licensed to operate in the state. This
893 comment page must, at a minimum, allow members of the public to
894 post comments on their experiences with, or observations of, an
895 assisted living facility and to review other people's comments.
896 Comments posted to the agency's comment page may not contain
897 profanity and are intended to provide meaningful feedback about
898 the assisted living facility. The agency shall provide for a
899 webpage moderator to review comments for profane content before

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900 the comments are posted to the page. An employee, owner, or
901 controlling interest in an assisted living facility is
902 prohibited from posting comments on the page.

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