

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/CS/HB 529 Adult Day Care Centers

**SPONSOR(S):** Health & Human Services Committee; Health & Human Services Access Subcommittee; Corcoran

**TIED BILLS:** **IDEN./SIM. BILLS:** CS/CS/SB 694

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health & Human Services Access Subcommittee	14 Y, 0 N, As CS	Guzzo	Schoolfield
2) Rulemaking & Regulation Subcommittee	14 Y, 1 N	Rubottom	Rubottom
3) Health & Human Services Committee	18 Y, 0 N, As CS	Guzzo	Gormley

### SUMMARY ANALYSIS

The bill creates the "Specialized Alzheimer's Services Adult Day Care Act"(Act). The act imposes increased standards by creating a licensure designation as a specialized Alzheimer's services adult day care center. The bill prohibits Adult day care centers (ADCCs) from claiming to be licensed or designated to provide specialized Alzheimer's services unless they receive the specialty designation. Under the Act, ADCCs wishing to obtain the specialty licensure designation will be required to meet certain standards of care and provide a program for dementia-specific, therapeutic activities.

The bill requires additional staff, increased monitoring, and training in order to receive the specialty licensure designation.. The bill also increases the requirements to become an operator of an ADCC with the specialty licensure designation.

The bill has a fiscal impact which can be absorbed by the Agency for Health Care Administration. (See fiscal comments).

The bill has an effective date of July 1, 2012.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Current Situation

##### Alzheimer's Disease

There is an estimated 5.4 million people in the United States with Alzheimer's disease, including 5.2 million people aged 65 and older and 200,000 individuals under age 65 who have younger-onset Alzheimer's disease.<sup>1</sup> In addition, there is an estimated 459,806 individuals suffering from Alzheimer's disease in the state of Florida.<sup>2</sup>

By 2030, the segment of the United States population aged 65 years and older is expected to double; and the estimated 71 million older Americans will make up approximately 20 percent of the total population.<sup>3</sup> By 2050, the number of people aged 65 and older with Alzheimer's disease is expected to triple to a projected 16 million people.<sup>4</sup>

##### Adult Day Care Centers - General

Adult day care centers (ADCCs) are regulated by the Agency for Health Care Administration (AHCA) pursuant to part II of chapter 408, F.S., and part III of chapter 429, F.S. An adult day care center is defined as "any building, buildings, or part of a building, whether operated for profit or not, in which is provided through its ownership or management, for a part of a day, basic services to three or more persons who are 18 years of age or older, who are not related to the owner or operator by blood or marriage, and who require such services."<sup>5</sup>

Nearly half of all patients in adult day care centers in the United States suffer from Alzheimer's disease or another form of dementia. Currently, there are 202 licensed ADCCs in the State of Florida.<sup>6</sup> Section 429.90, F.S., directs AHCA to develop, establish, and enforce basic standards for ADCCs in order to assure that a program of therapeutic social and health activities and services is provided to adults who have functional impairments. Section 429.929, F.S., authorizes the Department of Elder Affairs, in conjunction with AHCA, to adopt rules to implement the provisions of part III of chapter 429, F.S.

Each center must offer a planned program of varied activities and services promoting and maintaining the health of participants and encouraging leisure activities, interaction and communication among participants on a daily basis. Such activities and services must be available during at least sixty-percent of the time the center is open.<sup>7</sup>

##### *Participant Eligibility*

Participant eligibility in ADCCs is limited to adults with functional impairments in need of a protective environment and a program of therapeutic social and health activities and services. Centers are prohibited from accepting participants who require medication during the time spent at the center and who are incapable of self-administration of medications, unless there is a person to provide this service

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<sup>1</sup> Alzheimer's Association, 2011 Alzheimer's Disease Fact and Figures, located at [http://www.alz.org/alzheimers\\_disease\\_facts\\_and\\_figures.asp](http://www.alz.org/alzheimers_disease_facts_and_figures.asp)

<sup>2</sup> Florida Department of Elder Affairs, 2011 Florida State Profile, located at [http://elderaffairs.state.fl.us/english/pubs/stats/County\\_2011Projections/Florida\\_Map.html](http://elderaffairs.state.fl.us/english/pubs/stats/County_2011Projections/Florida_Map.html)

<sup>3</sup> Alzheimer's Association, 2011 Alzheimer's Disease Fact and Figures, located at [http://www.alz.org/alzheimers\\_disease\\_facts\\_and\\_figures.asp](http://www.alz.org/alzheimers_disease_facts_and_figures.asp)

<sup>4</sup> *Id.*

<sup>5</sup> S. 429.901(1), F.S.

<sup>6</sup> AHCA, *Staff Analysis and Economic Impact, House Bill Number 529* (December 15, 2011).

<sup>7</sup> Rule 58A-6.008(1), F.A.C.

who is licensed to administer medications.<sup>8</sup> Participants are required to provide a statement within forty-five days prior to admission signed by a physician documenting freedom from tuberculosis and freedom from signs and symptoms of other communicable diseases.<sup>9</sup> Participants shall not be admitted or retained in a center if the required services are beyond those that the center is licensed to provide.<sup>10</sup>

### *Staffing Requirements*

Adult day care centers are required to have one staff member for every six participants, and at no time may a center have less than two staff members present.<sup>11</sup> Staffing must be maintained at all times to meet the needs of the participants as required by the participant file.<sup>12</sup> The owner or operator may be counted as one of the required staff members if they provide direct services and are included in the work schedule for the center.<sup>13</sup>

### *Optional Supportive Services*

Adult day care centers may choose to provide optional supportive services. If provided, such services must be administered by staff qualified to provide such services. One of the optional supportive services that an ADCC may choose to provide is adult day health care services for disabled adults or aged persons. If an ADCC chooses to provide this service it must comply with certain standards relating to the operation of the center.<sup>14</sup> The center must have a registered nurse or licensed practical nurse (LPN) on site during the primary hours of program operation and on call during all hours the center is open. If the center chooses an LPN, the LPN must be supervised in accordance with chapter 464, F.S. To be considered a qualified operator of an ADCC, providing optional supportive services, the operator must:<sup>15</sup>

- Hold a minimum of a Bachelor's degree in a health or social services or related field with one year of supervisory experience in a social or health service setting; or
- Hold a registered nurse license with one year of supervisory experience; or
- Have five years of supervisory experience in a social or health service setting.

### **Adult Day Care Centers-Alzheimer's Specific Requirements**

Adult day care centers are required to provide the following Alzheimer's specific staff training:<sup>16</sup>

- Each employee must receive basic written information about interacting with participants who have Alzheimer's disease or other dementia-related disorders;
- Personnel whose responsibilities require them to have direct contact with participants who have Alzheimer's disease or other dementia-related disorders must complete initial training of at least one hour within the first three months of employment; and
- Employees who will be providing direct care to a participant who has Alzheimer's disease or other dementia-related disorders must complete an additional three hours of training within the first nine months of employment.

Current law requires ADCCs who claim to provide special care for individuals with Alzheimer's disease or other related disorders to disclose in its advertisements or in a separate document those services

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<sup>8</sup> Rule 58A-6.006(1)(a), F.A.C.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> Rule 58A-6.006(8), F.A.C.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> Rule 58A-6.010(6), F.A.C.

<sup>15</sup> Rule 58A-6.010(6)(c), F.A.C.

<sup>16</sup> S. 429.917(1), F.S.

that distinguish the care as being applicable to such persons.<sup>17</sup> At the time of survey, AHCA reviews documentation and advertisements relating to specialty care provided at the ADCC.<sup>18</sup> There are no additional requirements placed on a center wishing to hold itself out as an ADCC providing such specialized services.<sup>19</sup>

### **Effect of Proposed Changes**

The bill creates the “Specialized Alzheimer’s Services Adult Day Care Act”. The bill provides for an adult day care licensure designation as a specialized Alzheimer’s services ADCC. The bill requires additional staff, increased monitoring, and training in order to obtain the specialty licensure designation.

The bill does not prohibit ADCCs who do not have the specialty licensure designation from advertising that they provide Alzheimer’s services, but it does prohibit them from claiming to be licensed to provide specialized Alzheimer’s services unless they receive the specialty licensure designation.

The bill requires ADCCs to notify AHCA at least 30 days prior to initial licensure that they are seeking designation as a specialized Alzheimer’s services ADCC, and ADCCs that are already licensed must notify AHCA within 6 months prior to the expiration of the license that they are seeking the specialty designation.

Upon receiving notification, AHCA will make a determination at an initial or renewal licensure inspection as to whether the ADCC meets the requirements to receive the specialty designation. AHCA may at any time revoke the designation if the ADCC fails to comply with the increased requirements of the specialty designation.

In order to obtain and maintain the licensure designation as a specialized Alzheimer’s services ADCC, an ADCC must meet the following additional requirements beyond the standards contained in Part III of Chapter 429, Florida Statutes:

- Have a mission statement that includes a commitment to providing dementia-specific services;
- Disclose in the center’s advertisements or in a separate document, which must be made available to the public upon request, the services that distinguish the care as being suitable for a person who has Alzheimer’s disease or a dementia-related disorder;
- Provide a program for dementia-specific, therapeutic activities;
- Maintain a staff-to-participant ratio of one staff member who provides direct services for every five participants. This is an increase from the current staff to patient ratio requirement of one staff member for every six participants under Rule 58A-6.006(8)(a), F.A.C.;
- Provide a program for therapeutic activity at least seventy-percent of the time that the center is open. This is an increase from the current requirement of sixty-percent under Rule 58A-6.008, F.A.C.;
- Provide hands-on assistance with activities of daily living, inclusive of the provision of urinary and bowel incontinence care;
- Use assessment tools that identify the participant’s cognitive deficits and identify the specialized and individualized needs of the participant and the caregiver. This assessment must be conducted upon the participants admission to the center and must be updated when the participant experiences a significant change, but no less frequently than annually;
- Create an individualized plan of care for each participant, which addresses the dementia-specific needs of the participant and the caregiver. The plan of care must be established upon the participants admission to the center and must be reviewed quarterly;
- Conduct a monthly health assessment of the participant;
- Complete a monthly narrative in the participant’s file regarding their status or progress toward meeting the goals indicated on the individualized plan of care;

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<sup>17</sup> S. 429.917(2), F.S.

<sup>18</sup> AHCA, *Staff Analysis and Economic Impact, House Bill Number 529* (December 15, 2011).

<sup>19</sup> *Id.*

- Assist in the referral or coordination of other dementia-specific services and resources needed by the participant or caregiver;
- Offer, facilitate, or provide referrals to a support group for caregivers; and
- Have a registered nurse or licensed practical nurse on site daily for at least seventy-five-percent of the time that the center is open.
- Provide dementia-specific educational materials regularly to participants, as appropriate, and their caregivers;
- Routinely conduct and document a count of all participants present in the center throughout each day;
- Be a secured unit or have working alarm or security devices installed on every door that is accessible to the participant and provides egress from the center or areas of the center designated for the provision of adult day care specialized Alzheimer's services;
- Not allow a participant to administer their own medication; and
- Condition the participant's eligibility for admission on whether the participant has a coordinated mode of transportation to and from the ADCC to ensure that the participant does not drive to or from the center.

The bill requires participant files to contain a data sheet, which must be completed within 45 days before or within 24 hours after admission to the ADCC. The data sheet must contain information regarding the status of the participant's enrollment in an identification or wandering-prevention program, including the name of the program and a current photograph of the participant. The bill also requires the participants file to contain documentation relating to the provision of dementia specific services.

The bill requires an ADCC to give to each participant or the participant's caregiver a copy of the participant's plan of care, and a copy of the policies and procedures of the center, which must include information pertaining to driving for those persons affected by Alzheimer's disease or dementia, available technology on wandering-prevention devices and identification devices, the Silver Alert program, and dementia-specific safety interventions and strategies that can be use in the home setting.

### *Training Requirements*

Currently, ADCC staff must meet the following Alzheimer's specific training requirements:<sup>20</sup>

- Personnel whose responsibilities require them to have direct contact with participants who have Alzheimer's disease or other dementia-related disorders must complete initial training of at least one hour within the first three months of employment; and
- Employees who will be providing direct care to a participant who has Alzheimer's disease or other dementia-related disorders must complete an additional three hours of training within the first nine months of employment.

The bill requires ADCC staff, hired on or after July 1, 2012, of facilities who hold the Alzheimer's specialty licensure designation to meet the following Alzheimer's specific training requirements:

- Upon beginning employment with the center, each employee must receive and review basic written information about interacting with ADRD participants.
- Personnel whose responsibilities require them to have direct contact with participants who have Alzheimer's disease or dementia-related disorders must complete four hours of dementia-specific training within the first three months of employment.
- Each employee who provides direct care to participants will be required to complete an additional four hours of dementia-specific training within the first six months of employment.

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<sup>20</sup> S. 429.917, F.S.

The bill requires the Department of Elderly Affairs or its designee to approve the training and adopt rules to establish standards for employees who are subject to this training, for trainers, and for the training itself.

Upon completing the required training the employee shall be issued a certificate that includes the name of the training provider, the topics covered, and the date and signature of the training provider. The certificate is evidence of completion of training in the identified topics, and the employee is not required to repeat training in those topics if the employee changes employment to a different ADCC.

Currently, ADCC staff members are required to be trained to implement the policies and procedures specified in the orientation and training plan.<sup>21</sup> The orientation and training plan is a written plan developed and reviewed at least annually and implemented throughout the year which describes a coordinated program for staff training for each service and for orientation of each new staff member on center policies, procedures, assigned duties and responsibilities, which must begin no later than the first day of employment.<sup>22</sup>

The bill requires ADCC staff, hired on or after July 1, 2012, who provide direct care to ADRD participants, to receive and review an orientation plan that includes:

- Procedures to locate a participant who has wandered from the center which must be reviewed regularly with all direct care staff;
- Information on the Silver Alert program; and
- Information regarding available products or programs used to identify participants or prevent them from wandering away from the center, their home, or other locations.

#### *Operator Requirements*

Currently, operators of ADCCs are not required to meet any educational or background experience requirements to qualify as an operator. In order to obtain licensure designation as a specialized Alzheimer's services ADCC the bill requires ADCC operators who are hired on or after July 1, 2012 to meet the educational and experience requirements that are currently only applicable to ADCCs who chose to provide optional supportive services for disabled adults or aged persons. Adult day care center operators, or their designees, will be required to have a Bachelors degree in health care services, social services, or a related field, one year of staff supervisory experience in a social services or health care service setting, and have a minimum of one-year of experience in providing dementia-specific services. A person may also qualify to be an operator if they possess a license as a registered or practical nurse, have one year of staff supervisory experience in a social services or health care services setting, and have a minimum of one year of experience in providing dementia-specific services. Lastly, a person may qualify as an operator if they have five years of staff supervisory experience in social services or health care services, and a minimum of three years of experience in providing dementia-specific services.

The bill requires the owner of the ADCC to sign an affidavit under penalty of perjury stating that he or she has verified that the operator has completed the education and experience requirements.

#### *Participant Eligibility*

The bill creates additional admission requirements for participants seeking admittance in an ADCC holding the Alzheimer's specialty licensure designation. The additional admission requirements would prohibit a center having the specialty licensure designation from being able to admit participants other than those meeting the specific admission requirements. These specialty centers would not be able to service populations other than those participants.<sup>23</sup> The bill requires potential ADCC participants to meet the following pre-admission requirements:

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<sup>21</sup> Rule 58A-6.007(2), F.A.C.

<sup>22</sup> Rule 58A-6.002(o), F.A.C.

<sup>23</sup> AHCA, *Staff Analysis and Economic Impact, House Bill Number 529* (December 15, 2011).

- Require ongoing supervision to maintain the highest level of medical or custodial functioning and have a demonstrated need for a responsible party to oversee his or her care;
- Must not actively demonstrate aggressive behavior that places themselves or others at risk of harm; and
- Provide additional medical documentation signed by a licensed physician, licensed physician assistant, or a licensed advanced registered nurse practitioner, which must include:
  - Any physical, health, or emotional conditions that require medical care;
  - A listing of the current prescribed and over-the-counter medications and dosages, diet restrictions, mobility restrictions, and other physical limitations; and
  - Proof that the person is free of the communicable form of tuberculosis and free of signs and symptoms of other communicable diseases.

The bill also requires the ADCC to make certain determinations regarding the centers ability to treat the potential participant before admission. The ADCC must determine whether:

- The medical, psychological, safety, and behavioral support and intervention required by the person can be provided by the center; and
- The resources required to assist with the person's acuity of care and support needed can be provided or coordinated by the center.

The bill requires ADCCs to coordinate and execute appropriate discharge procedures for participants who have had their enrollment involuntarily terminated due to medical or behavioral reasons.

**B. SECTION DIRECTORY:**

Section 1. Amends s. 429.917, F.S., relating to patients with Alzheimer's disease or other related disorders;

Section 2. Creates s. 429.918, F.S., relating to the Specialized Alzheimer's Services License;

Section 3. Provides an effective date of July 1, 2012.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

See fiscal comments section.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

The bill will require more and different staff and expenses for adult day care centers wishing to obtain the Adult Day Care Specialized Alzheimer's Services License.

D. FISCAL COMMENTS:

The Agency for Health Care Administration expects this legislation to result in annual recurring expenditures of \$31,786. The Agency for Health Care Administration can absorb the impact of this increase within their existing resources.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill authorizes the Department of Elderly Affairs to adopt rules.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On January 17, 2012, the Health and Human Services Access Subcommittee adopted a strike-all amendment to HB 529. The amendment:

- Prohibits an adult day care center from claiming to be licensed to provide specialized Alzheimer's services unless it receives the specialty license;
- Defines the term "ADRD participant";
- States that the licensure created by the bill is voluntary;
- Requires an adult day care center with the specialty license to provide ADRD participants with hands-on assistance with activities of daily living, inclusive of the provision of urinary and bowel incontinence care;
- Provides that only operators hired on or after July 1, 2012, have to meet the specified educational and experience requirements;
- Provides that a registered nurse or licensed practical nurse must be on site daily for at least seventy-five-percent of the time that the center is open, rather than during all hours of operation;
- Provides that only staff hired on or after July 1, 2012, have to complete the additional training requirements;
- Requires the Department of Elderly Affairs to approve the training required under the bill and provides rulemaking authority to the department to do so;
- Provides that employees must receive a certificate upon completion of the required training;
- Requires every employee to receive basic written information about interacting with ADRD participants;
- Clarifies that the bill does not prohibit an adult day care center that chooses not to become licensed from providing adult day care services to persons who have Alzheimer's disease or other dementia-related disorders; and
- Makes technical changes.

The bill was reported favorably as a Committee Substitute. This analysis reflects the Committee Substitute.



On February 16, 2012, the Health and Human Services Committee adopted a strike-all amendment to HB 529. The amendment:

- Changes the definition of “ADRD participant” to allow physician assistants as well as advanced registered nurse practitioners to diagnose participants with Alzheimer’s disease or a related disorder;
- Adds the definition of “therapeutic activities” as it relates to a provision in the bill that requires ADCCs to offer a therapeutic activity program to participants 70% of the time the center is open;
- Clarifies that the standards required under this bill must be met in addition to the current standards required for ADCC licensure under s. 429.907, F.S.;
- Requires ADCCs seeking designation as a specialized Alzheimer’s services ADCC to notify AHCA at least 30 days prior to initial licensure and at least 6 months prior to licensure renewal for such designation;
- Requires AHCA to make a determination as to whether the ADCC meets the requirements for designation as a specialized Alzheimer’s services ADCC upon initial licensure inspection or at a licensure renewal inspection;
- Requires the owner of the ADCC to sign an affidavit stating that they have verified the education and experience requirements of the center’s operator;
- Requires advertisements that distinguish the services and care provided as being suitable for persons with Alzheimer’s disease or related disorders to be made available to the public upon request;
- Requires ADRD participants, as a condition of eligibility, to have a coordinated mode of transportation in place prior to enrollment to ensure that the participant does not drive to and from the center;
- Clarifies that ADCC staff must receive and review basic written information about interacting with ADRD participants;
- Allows physician assistants and advanced registered nurse practitioners to complete and sign the requisite medical documentation required to be provided by the ADRD participant;
- Removes a duplicative provision relating to review of the participant’s individualized plan of care; and
- Allows an ADRD participant’s caregiver to provide the center with updated medical documentation.

The bill was reported favorably as a Committee Substitute. This analysis reflects the Committee Substitute.