

By Senator Wise

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1 A bill to be entitled
2 An act relating to assisted living facilities;
3 creating the Florida Assisted Living Quality
4 Improvement Initiative Pilot Project; providing
5 purpose; providing definitions; limiting the pilot
6 project to specified area offices of the Agency for
7 Health Care Administration; providing for statewide
8 expansion of the pilot program on December 31, 2017,
9 unless repealed by the Legislature; providing criteria
10 for participation in the pilot project; providing
11 duties of the agency for implementation of the pilot
12 project; requiring the agency to use an electronic
13 data collection system for quality assurance;
14 providing for establishment of a data collection
15 workgroup and providing its duties; authorizing the
16 agency to establish a fee for facilities that use the
17 data collection system; providing system requirements;
18 providing for establishment of a monitoring workgroup
19 and providing its duties, including a report to the
20 Governor and Legislature; providing for development,
21 in collaboration with the Medicaid Fraud Unit, of an
22 interagency task force to conduct investigations of
23 certain facilities and revoke licenses, suspend
24 payments, and relocate residents for substantial
25 noncompliance or failure to provide adequate care;
26 authorizing the agency to impose a fine for transfers
27 or discharges from a hospital to an assisted living
28 facility that do not meet certain standards; providing
29 for development and implementation of a statewide

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30 administrator certification program; requiring an
31 assisted living facility to employ a certified
32 administrator as a condition for continued licensure;
33 providing requirements for and limitations on
34 certified administrators; requiring the administrator
35 of a licensed facility that is eligible to participate
36 in the pilot project to notify the agency when the
37 facility enrolls in the pilot project; requiring each
38 facility, before enrollment, to execute a memorandum
39 of agreement that includes a provision authorizing the
40 agency to terminate the facility's participation in
41 the pilot project; prohibiting a facility from
42 challenging or appealing the agency's decision under
43 ch. 120, F.S.; providing for annual open enrollment;
44 providing that a facility's enrollment in the pilot
45 project does not prohibit the facility from seeking
46 alternative accreditation; requiring the agency to
47 establish quality improvement teams; providing for the
48 composition and duties of a quality improvement team;
49 providing conditions for a quality improvement team to
50 terminate the operation of an assisted living
51 facility; providing for the resumption of inspections
52 by the agency if a facility's participation in the
53 pilot project is terminated; requiring compliance with
54 agency rules before an assisted living facility may be
55 reenrolled in the pilot project; requiring the agency
56 to approve or reject a facility's request for
57 termination of participation in the pilot project;
58 requiring that the facility be subject to survey,

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59 inspection, and monitoring visits by the agency;
60 providing that reports and documents generated by a
61 quality improvement team may not be used in certain
62 tort actions; authorizing the Department of Elderly
63 Affairs to adopt rules and impose fees and
64 requirements for providers of core training; providing
65 educational requirements for assisted living facility
66 administrators; providing an effective date.

67
68 Be It Enacted by the Legislature of the State of Florida:

69
70 Section 1. Florida Assisted Living Quality Improvement
71 Initiative Pilot Project.—

72 (1) The Florida Assisted Living Quality Improvement
73 Initiative Pilot Project is created to identify best practices
74 for providing care to residents of licensed assisted living
75 facilities, improve regulatory oversight and protection of
76 residents, promote increased information sharing, collaboration,
77 and implementation of best practices by frontline caregivers,
78 and develop, in collaboration with the facility, a quality
79 improvement plan to reduce the need for institutional care.

80 (2) As used in this section, the term:

81 (a) "Agency" means the Agency for Health Care
82 Administration.

83 (b) "Department" means the Department of Elderly Affairs.

84 (3) The pilot project shall be limited to 150 facilities in
85 each of agency areas 4, 5, 6, 8, and 11. The pilot project shall
86 expand statewide on December 31, 2017, unless repealed by the
87 Legislature. A facility is eligible to participate in the pilot

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88 project if the facility has not been cited for a class I or
89 class II violation and has no more than five uncorrected class
90 III violations on the prior two annual surveys and on any survey
91 that resulted from a complaint.

92 (4) To implement the pilot project, the agency shall,
93 within funds appropriated:

94 (a) Establish an enrollment process and a timeline for
95 implementation of the pilot project.

96 (b) Establish a method to measure facility improvement and
97 collect data with respect to critical factors that affect
98 quality of care and occupancy rates.

99 (c) Use electronic means to collect data on facility
100 quality assurance.

101 (d) Establish a data collection workgroup to develop
102 criteria for a request for proposal to implement a statewide
103 data collection system. The request for proposal must specify
104 the data elements that the data collection system must capture
105 and how the data will be used to track quality of care and
106 occupancy rates. The agency may reallocate funding within its
107 budget to implement the system in the pilot project areas. An
108 assisted living facility that receives Medicaid funding must use
109 the data collection system. The agency may establish a fee for
110 users of the data collection system. The agency shall require
111 that the data collection system:

112 1. Be compatible with changes in long-term care resulting
113 from Medicaid reform enacted by the Federal Government.

114 2. Permit user access from all parts of the system of care
115 associated with licensed assisted living facilities that receive
116 Medicaid funding.

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117 3. Permit frontline caregivers to collect defined data
118 elements that indicate a change in a resident's condition and
119 employ intuitive technology to forecast patient care needs and
120 trends in facility quality improvement.

121 4. Provide online training videos to improve the skills of
122 frontline caregivers. A training provider may make online
123 training material available via the statewide data collection
124 system. Training shall be provided on a subscription basis and
125 shall include online competency examinations for caregivers. The
126 system shall verify the identity of the subscriber and the
127 amount of time the subscriber participates in online training.
128 This information shall be made available to the agency through
129 electronic means.

130 5. Include specialized training for staff who care for
131 adults with mental illness, which shall include aggression
132 control training, information regarding involuntary commitment
133 procedures under the Baker Act, how to recognize a change in
134 mental condition, use of psychiatric medications, how to manage
135 difficult behaviors of adults with mental illness, and other
136 training in services provided by the state mental health
137 services delivery system.

138 6. Include a technical interface between a mental health
139 provider and an assisted living facility if the provider and the
140 facility have established a cooperative agreement, as defined in
141 s. 429.02(8), Florida Statutes. The interface shall permit a
142 mental health case manager to review client information and care
143 trends associated with residents of an assisted living facility.
144 A case manager shall record any face-to-face contact with a
145 resident and update the community living support plan in real

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146 time when changes are needed. The agency survey staff and the
147 department shall have access to this information for agency
148 monitoring purposes.

149 (e) Establish a monitoring workgroup, to be comprised of
150 representatives of state agencies that regulate assisted living
151 facilities, owners of assisted living facilities, and other
152 interested parties, to:

153 1. Develop a request for information, establish
154 requirements for certification, and approve proposed fees by
155 July 1, 2013.

156 2. Review survey forms, the inspection process, and how
157 compliance is determined to ensure the safety and protection of
158 residents who reside in a licensed assisted living facility.

159 3. Develop a streamlined regulatory oversight system.

160 4. Monitor the implementation of the pilot project.

161 5. Propose specific changes to implement a cost-effective
162 oversight system for assisted living facilities.

163 6. Establish a plan that uses an abbreviated survey process
164 to enable agency surveyors to concentrate on facilities that
165 require greater oversight and that includes appropriately
166 trained lead assisted living facility surveyors.

167 7. Submit a report of its findings to the Governor, the
168 President of the Senate, and the Speaker of the House of
169 Representatives by January 1, 2013.

170 (f) In collaboration with the Medicaid Fraud Control Unit,
171 develop an interagency task force to investigate facilities that
172 have failed to improve care for residents, are suspected of
173 operating without a license, or have been subject to fines or
174 other sanctions. The agency shall be the lead agency and shall

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175 schedule random onsite inspections of such facilities to
176 evaluate compliance with assisted living facility standards and
177 Medicaid rules. The task force may revoke a facility's license
178 if substantial noncompliance is found. The task force may
179 suspend payments to the facility and relocate residents who are
180 not receiving appropriate care.

181 (g) Review discharge plans for a patient who is being
182 transferred from a hospital to an assisted living facility,
183 require the hospital to complete a health assessment of the
184 patient signed by a licensed health care professional prior to
185 discharge, and provide a copy of the assessment to the
186 administrator of the assisted living facility before the patient
187 is discharged. The agency shall levy a \$500 fine for each
188 transfer or discharge from a hospital that fails to meet the
189 requirements of this paragraph.

190 (h) Work with private-sector providers of certification to
191 develop and implement a statewide administrator certification
192 program. Each certified assisted living facility administrator
193 must pass a competency examination every 4 years and is
194 responsible for renewing the certification. An assisted living
195 facility must employ a certified administrator as a condition
196 for continued licensure. A certified assisted living facility
197 administrator may not supervise more than three facilities. The
198 certification must be posted in a visible place in the facility.
199 Each facility must have a certified administrator on call at all
200 times.

201 (5) The administrator of a licensed facility that is
202 eligible to participate in the pilot project shall notify the
203 agency when the facility agrees to enroll in the pilot project.

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204 Enrollment in the pilot project is voluntary but may be required
205 if the agency determines that enrollment in the pilot project is
206 necessary to improve the quality of care offered by the
207 facility. The agency shall enroll the first 150 eligible
208 facilities in each authorized agency area that seek enrollment.
209 Before enrollment, each facility must execute a memorandum of
210 agreement with the agency that includes a provision authorizing
211 the agency to terminate the facility's participation in the
212 pilot project at will. The agency's decision to terminate a
213 facility's participation in the pilot project may not be
214 challenged or appealed under chapter 120, Florida Statutes.

215 (6) The open enrollment period to participate in the pilot
216 project begins January 1 and ends March 1 each year. A
217 facility's enrollment in the pilot project does not prohibit the
218 facility from seeking alternative accreditation from a
219 recognized health care accreditation organization, such as the
220 Commission on Accreditation of Rehabilitative Facilities or the
221 Joint Commission.

222 (7) The agency, within funds appropriated by the
223 Legislature, shall establish an assisted living facility quality
224 improvement team in each pilot project area for the purpose of
225 evaluating and improving the quality of facilities participating
226 in the pilot project.

227 (a) A quality improvement team shall include:

228 1. An agency lead surveyor who has received training
229 relating to the requirements for providing care to residents of
230 an assisted living facility, who shall head the team.

231 2. A quality improvement specialist who has professional
232 expertise or a background in working with behavioral health

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233 needs or elder and aging needs.

234 3. A registered nurse.

235 4. A licensed dietician.

236 5. If the facility being evaluated is an assisted living
237 facility with a limited mental health license is being
238 evaluated, a mental health professional.

239 (b) A quality improvement team shall:

240 1. Establish criteria for quality improvement plans, which
241 shall include an evaluation of the plan based upon client access
242 to adequate care, provision of personal services and support,
243 adequate documentation and reporting of client information,
244 supervision and training of the staff and residents, and
245 compliance with physical plant and safety standards that promote
246 independence and dignity for facility residents.

247 2. Evaluate the progress of the facility in meeting the
248 goals of the quality improvement plan.

249 3. Conduct an annual assessment and followup visits as
250 needed to monitor the progress of the facility in meeting the
251 goals of the quality improvement plan.

252 4. Consult with the owner and administrator of the facility
253 in meeting plan requirements, create electronic systems to
254 monitor compliance with agency rules, ensure that training
255 standards established under s. 429.52, Florida Statutes, are
256 met, and work to help ensure an adequate system of care that
257 provides access to community-based services that would improve
258 the care of the residents and the conditions in the facility.

259 5. Maintain records of the assessments and ongoing efforts
260 to assist the facility in meeting quality improvement goals.

261 6. Use electronic means to capture data and generate

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262 reports relating to compliance with the quality improvement
263 plan.

264 (8) A quality improvement team may terminate a facility
265 that has failed to meet the goals of the plan from the pilot
266 project after reasonable efforts are made to seek cooperation
267 and assistance from the owner and the administrator of the
268 facility. If a facility is terminated under these conditions,
269 the facility's participation in the pilot project is
270 automatically terminated.

271 (9) If a facility's participation in the pilot project is
272 terminated, the quality improvement team shall notify the
273 Division of Health Quality Assurance of the agency, and that
274 facility shall be subject to the survey, inspection, and
275 monitoring visits conducted under s. 408.811, Florida Statutes.
276 The facility is not eligible to reenroll in the pilot project
277 until the agency has certified that the facility is in
278 substantial compliance with agency rules.

279 (10) A facility may terminate its participation in the
280 pilot project, and the agency shall require the facility to be
281 subject to the survey, inspection, and monitoring visits
282 conducted pursuant to s. 408.811, Florida Statutes. If such
283 termination is sought, the facility administrator shall notify
284 the agency area office in writing and specify the reasons the
285 facility seeks to terminate its participation in the pilot
286 project. The agency shall approve or reject the request under
287 the terms and conditions of the memorandum of agreement
288 completed by the facility before enrolling in the pilot project.

289 (11) Reports and documents generated by a quality
290 improvement team may not be used in any tort action sought

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291 against the licenseholder of an enrolled facility.

292 (12) The Department of Elderly Affairs may adopt rules,
293 impose fees, and provide requirements necessary to certify
294 providers that seek to offer the assisted living facility staff
295 core training. The department shall review the total number of
296 hours required for completion of core training, which shall be
297 at least 40 hours. The department may charge a fee for core
298 training and revoke certification for core trainers that fail to
299 meet requirements as established under department rule. Fees
300 imposed under this subsection may not, in the aggregate, exceed
301 the costs necessary to adequately administer the certification
302 process for providers of core training.

303 (13) An assisted living facility administrator must
304 complete a minimum of 40 hours in the core training program,
305 have a minimum of 5 years' administrative experience at a
306 licensed assisted living facility, or have a 4-year
307 baccalaureate degree from an accredited college or university.
308 An administrator must obtain 8 hours of continuing education in
309 areas that relate to the number and type of residents served at
310 the assisted living facility. The administrator may enroll in
311 online education courses or other accredited programs that offer
312 continuing education units, class credits, or a department-
313 approved curriculum by an assisted living core training
314 provider.

315 Section 2. This act shall take effect July 1, 2012.