

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Health Regulation Committee

BILL: CS/CS/SB 694

INTRODUCER: Health Regulation Committee; Children, Families, and Elder Affairs Committee; and Senator Fasano and others

SUBJECT: Adult Day Care Centers

DATE: January 26, 2012

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|-------------|----------------|-----------|---------------|
| 1. | Daniell | Farmer | CF | Fav/CS |
| 2. | O'Callaghan | Stovall | HR | Fav/CS |
| 3. | _____ | _____ | BC | _____ |
| 4. | _____ | _____ | _____ | _____ |
| 5. | _____ | _____ | _____ | _____ |
| 6. | _____ | _____ | _____ | _____ |

Please see Section VIII. for Additional Information:

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|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

This bill creates the Specialized Alzheimer's Services Adult Day Care Act (Act), which allows an adult day care center to apply to the Agency for Health Care Administration (AHCA) for a designation on its license as a "specialized Alzheimer's services adult day care center." The bill provides heightened requirements that an adult day care center seeking such licensure designation must follow.

The operator, and the operator's designee, hired on or after July 1, 2012, by an adult day care center that has a license designated under the Act must meet certain education or experience requirements. In addition, an adult day care center having a license designated under the Act must have a registered or licensed practical nurse on site daily for at least 75 percent of the time that the center is open to Alzheimer's disease or a dementia-related disorder (ARD) participants, and certain staff must have additional hours of dementia-specific training and receive and review an orientation plan.

In order for a person to be admitted to an adult day care center with a designated license, the person must require ongoing supervision and may not actively demonstrate aggressive behavior. In addition, the adult day care center participant or the participant's caregiver must provide

certain medical documentation signed by a licensed physician, licensed physician assistant, or a licensed advanced registered nurse practitioner.

The bill provides requirements for an ADRD participant's plan of care and additional requirements that an adult day care center having a licensure designation must follow. The bill requires a center to coordinate and execute appropriate discharge procedures if the center involuntarily terminates an ADRD participant's enrollment in the center for medical or behavioral reasons.

The bill specifies that an adult day care center that chooses not to have a licensure designation may still provide adult day care services to persons who have Alzheimer's disease or other dementia-related disorders. However, an adult day care center may not claim to have a license or licensure designation to provide specialized Alzheimer's services unless it has received such licensure designation.

The bill provides rulemaking authority to the Department of Elderly Affairs (DOEA or Department) to administer the newly created section of law.

This bill amends section 429.917, Florida Statutes.

The bill creates section 429.918, Florida Statutes.

II. Present Situation:

Alzheimer's Disease

Alzheimer's disease is a progressive, degenerative disorder that attacks the brain's nerve cells and results in loss of memory, thinking, and language skills, and behavioral changes.¹ Alzheimer's disease was named after Dr. Alois Alzheimer, a German physician, who in the early 1900's cared for a 51-year-old woman suffering from severe dementia. Upon the woman's death, Dr. Alzheimer conducted a brain autopsy and found bundles of neurofibers and plaques in her brain, which are distinguishing characteristics of what we call Alzheimer's disease today.²

There are approximately 5.4 million Americans currently living with Alzheimer's disease, and that number is projected to rise to 16 million by 2050.³ As the life expectancy for Americans has continued to rise, so has the number of new cases of Alzheimer's disease. For instance, in 2000 there were an estimated 411,000 new cases of Alzheimer's disease in the United States, and in 2010 that number was estimated to be 454,000 – a 10 percent increase.⁴ That number is expected to rise to 959,000 new cases of Alzheimer's disease by 2050, a 130 percent increase from 2000.⁵

¹ Alzheimer's Foundation of America, *About Alzheimer's, Definition of Alzheimer's*, <http://www.alzfdn.org/AboutAlzheimers/definition.html> (last visited January 22, 2012).

² Michael Plontz, *A Brief History of Alzheimer's Disease*, TODAY'S CAREGIVER, http://www.caregiver.com/channels/alz/articles/a_brief_history.htm (last visited January 22, 2012).

³ Alzheimer's Assn., *Fact Sheet: 2011 Alzheimer's Disease Facts and Figures* (March 2011), available at http://www.alz.org/documents_custom/2011_Facts_Figures_Fact_Sheet.pdf (last visited January 22, 2012).

⁴ Alzheimer's Assn., *2011 Alzheimer's Disease Facts and Figures*, 7 ALZHEIMER'S & DEMENTIA (Issue 2) at 17, available at http://www.alz.org/downloads/Facts_Figures_2011.pdf (last visited January 22, 2012).

⁵ *Id.*

Specifically in Florida, approximately 360,000 people age 65 or older had Alzheimer's disease in 2000 and in 2010 that number had risen to 450,000.⁶

As the number of people with Alzheimer's disease increases, so does the cost of caring for these individuals. In 2011, the aggregate cost for health care, long-term care, and hospice for persons with Alzheimer's and other dementias was estimated to be \$183 billion. That number is projected to be \$1.1 trillion by 2050.⁷ A major contributing factor to the cost of care for persons with Alzheimer's is that these individuals have more hospital stays, skilled nursing home stays, and home healthcare visits than older persons who do not have Alzheimer's disease. Research shows that 22 percent of individuals with Alzheimer's disease who have Medicare also have Medicaid coverage, which pays for nursing home care and other long-term care services.⁸ The total Medicaid spending for people with Alzheimer's disease (and other dementia) was estimated to be \$37 billion in 2011.⁹

In addition to the cost of health care, there is a significant cost associated with unpaid caregivers. An unpaid caregiver is primarily a family member, but can also be other relatives or friends. Such caregivers often provide assistance with daily activities, such as shopping for groceries, preparing meals, bathing, dressing, grooming, assisting with mobility, helping the person take medications, making arrangements for medical care, and performing other household chores. In 2010, nearly 15 million unpaid caregivers provided an estimated 17 billion hours of unpaid care, valued at \$202.6 billion.¹⁰ In 2010, there were 960,037 caregivers in Florida with an estimated value of unpaid care reaching nearly \$13.5 million.¹¹

Adult Day Care Centers

The AHCA is authorized by statute to regulate and develop, establish, and enforce basic standards for adult day care centers (centers). 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."¹² The AHCA currently licenses 202 adult day care centers throughout the state.¹³

Section 429.90, F.S., assures the implementation of a program that provides therapeutic social and health activities and services to adults in an adult day care center. A participant¹⁴ in an adult day care center must have functional impairments and be in need of a protective environment

⁶ *Id.* at 18.

⁷ *Id.* at 35.

⁸ *Id.*

⁹ *Id.* at 44.

¹⁰ This number was established by using an average of 21.9 hours of care a week with a value of \$11.93 per hour. *Id.* at 27.

¹¹ *Id.* at 32.

¹² Section 429.901(1), F.S.

¹³ Agency for Health Care Administration, *2012 Bill Analysis & Economic Impact Statement, CS/SB 694* (on file with the Senate Committee on Health Regulation).

¹⁴ Section 429.901(8), F.S., defines a participant as "a recipient of basic services or of supportive and optional services provided by an adult day care center."

where therapeutic social and health activities and services are provided.¹⁵ 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 licensed to administer medications at the center.¹⁶

Every adult day care 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. Centers are required to make these activities and services available during at least 60 percent of the time the center is open.¹⁷ A center is required to have one staff member for every six participants, but at no time may a center have less than two staff members present, one of whom is certified in first aid and CPR.¹⁸

Section 429.917, F.S., provides specific requirements for centers that offer care to persons with Alzheimer's disease or other related disorders. Current law authorizes an adult day care center to advertise and promote that it provides special care for persons with Alzheimer's disease or other related disorders. In order to do so, the center must disclose in its advertisements or in a separate document those services that distinguish the care as being especially applicable to, or suitable for, such persons.¹⁹ These centers must provide staff with written information on interacting with participants with Alzheimer's disease or dementia-related disorders. Additionally, staff who have direct contact with participants who have Alzheimer's disease or a dementia-related disorder must complete training of at least 1 hour within the first 3 months after employment, and staff who provide direct care to those same participants must complete an additional 3 hours of training within nine months after employment.²⁰ The training for staff who have direct contact with participants must include an overview of dementias and must provide instruction in basic skills for communicating with persons who have dementia. The training for staff who provide direct care to participants must include the management of problem behaviors, information about promoting the participant's independence in activities of daily living, and instruction in skills for working with families and caregivers.

The AHCA is authorized to license facilities requesting licensure as an adult day care center. There are no additional requirements placed on a center wishing to hold itself out as an adult day care center providing specialized services in any particular field.²¹

III. Effect of Proposed Changes:

This bill creates the Specialized Alzheimer's Services Adult Day Care Act (Act), which allows an adult day care center to seek licensure designation as an adult day care center that specializes in Alzheimer's disease and dementia-related disorder services.

¹⁵ Agency for Health Care Admin., *supra* note 13.

¹⁶ Rule 58A-6.006, F.A.C.

¹⁷ Rule 58A-6.008, F.A.C.

¹⁸ Rule 58A-6.006, F.A.C.

¹⁹ Section 429.917(2), F.S.

²⁰ Section 429.917(1), F.S.

²¹ Agency for Health Care Admin., *supra* note 13.

The bill defines the term “ADRD participant” as “a participant who has a documented diagnosis of Alzheimer’s disease or a dementia-related disorder (ADRD) from a licensed physician, licensed physician assistant, or a licensed advanced registered nurse practitioner. The bill also defines the terms “dementia,” “specialized Alzheimer’s services,” and “therapeutic activity.”

An adult day care center seeking licensure designation as a “specialized Alzheimer’s services adult day care center” must provide advance notice to the AHCA that the adult day care center is seeking such designation. The notice must be provided at least 30 days prior to initial licensure of the adult day care center, or if the center is already licensed, at least 6 months prior to expiration of the center’s license.

The bill requires the AHCA to issue the licensure designation to an adult day care center that has sought the designation and that meets the requirements of the bill. However, the issuance of the designation may only be made at the time of initial licensure or at licensure renewal.

The bill authorizes the AHCA to deny the request for the designation or revoke a designation of the adult day care center’s license if the adult day care center:

- Commits an intentional or negligent act materially affecting the health or safety of center participants.
- Commits a violation of part III of ch. 429, F.S., relating to adult day care centers, or of any standard or rule under that part or part II of ch. 408, F.S., relating to health care licensing.
- Fails to comply with background screening standards.
- Fails to follow the criteria and procedures provided under part I of ch. 394, F.S., relating to the transportation, voluntary admission, and involuntary examination of participants.
- Commits multiple or repeated violations of part III of ch. 429, F.S., or of any standard or rule adopted under that part or part II of ch. 408, F.S.

Furthermore, the bill authorizes the AHCA to revoke, at any time, the licensure designation if the adult day care center fails to maintain the requirements under the bill.

To be eligible for licensure designation, the adult day care center must:

- Have a mission statement that includes a commitment to providing dementia-specific services and disclose in the center’s advertisements or in a separate document, 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 at all times a minimum staff-to-participant ratio of one staff member who provides direct services for every five ADRD participants.
- Provide a program for therapeutic activity at least 70 percent of the time.
- Provide ADRD participants with hands-on assistance with activities of daily living, inclusive of the provision of urinary and bowel incontinence care.
- Use assessment tools that identify the ADRD participant’s cognitive deficits and identify the specialized and individualized needs of the ADRD participant and the caregiver. This assessment must be updated when the ADRD participant experiences a significant change, but no less frequently than annually.

- Create an individualized plan of care for each ADRD participant, which addresses the identified, dementia-specific needs of the ADRD participant and the caregiver. The plan of care must be reviewed quarterly.
- Conduct a monthly health assessment of each ADRD participant, which includes the ADRD participant's weight, vital signs, and level of assistance needed with activities of daily living.
- Complete a monthly update in the ADRD participant's file regarding the ADRD participant's status or progress toward meeting goals indicated on the plan of care.
- Assist in the referral or coordination of other dementia-specific services and resources needed by the ADRD participant or caregiver.
- Offer, facilitate, or provide referrals to a support group for persons who are caregivers.
- Provide dementia-specific educational materials regularly to ADRD participants and their caregivers.
- Routinely conduct and document a count of all ADRD participants present in the center.
- Be a secured unit or have working alarm or security devices installed on every door that is accessible to the ADRD participants 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 an ADRD participant to administer his or her own medication.
- Condition the ADRD participant's eligibility for admission on whether the ADRD participant has a coordinated mode of transportation to and from the center.

All operators, and the operator's designee, hired on or after July 1, 2012, by an adult day care center having a licensure designation, must:

- Have at least a bachelor's degree in health care services, social services, or a related field, one year of staff supervisory experience in a social services or health care services setting, and a minimum of 1 year of experience in providing dementia-specific services;
- Be a registered or practical nurse licensed in Florida, have one year of staff supervisory experience in a social services or health care services setting, and a minimum of 1 year of experience in providing dementia-specific services; or
- Have 5 years of staff supervisory experience in a social services or health care services setting and a minimum of 3 years of experience in providing dementia-specific services.

The bill requires that a registered nurse, or licensed practical nurse who must be supervised in accordance with existing law, be on site daily for at least 75 percent of the time the center is open to ADRD participants.

Upon beginning employment with a center, each employee must receive and review basic written information about interacting with ADRD participants. Additionally, every employee hired on or after July 1, 2012, who has direct contact with ADRD participants, must complete four hours of dementia-specific training within the first 3 months after employment, and employees hired on or after July 1, 2012, who provide direct care to participants, must complete an additional four hours of dementia-specific training within 6 months after employment. Upon completing this training, the employee will be issued a certificate that includes the name of the training provider, the topics covered in the training, and the date and signature of the training provider. The DOEA must approve the training required under the Act.

The training requirements for staff in this bill are more extensive than the current training requirements for staff at an adult day care center that provides care to persons with Alzheimer's disease. Accordingly, it appears that staff at any adult day care center that provides care to persons with Alzheimer's would continue to follow the requirements provided for in s. 429.917, F.S., and if a center opts to have a license designated under the Act, then staff at that center would be required to meet the additional requirements provided for in this bill.

The bill requires that each employee hired on or after July 1, 2012, who provides direct care to ADRD participants, receive and review an orientation plan, which must include:

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

In order for a person to be admitted to an adult day care center with a license designated under the Act, the person must:

- Require ongoing supervision to maintain the highest level of medical or custodial functioning and have a documented need for a responsible party to oversee his or her care.
- Not actively demonstrate aggressive behavior that places himself, herself, or others at risk for harm.

In addition, the person admitted to the adult day care center, or the person's caregiver, must provide certain medical documentation signed by a licensed physician, licensed physician assistant, or a licensed advanced registered nurse practitioner.

Also, before admitting a person as an ADRD participant, the adult day care center must determine whether the medical, psychological, or behavioral support and intervention required by the person can be provided by the center, and whether the resources required to assist with the person's acuity of care and support can be provided or coordinated by the center.

The bill requires certain documentation to be placed in an ADRD participant's file. First, the file must contain a data sheet, which must be completed within 45 days before or within 24 hours after admission to an adult day care center with a licensure designation. The data sheet must contain information regarding the status of the ADRD participant's enrollment in an identification or wandering-prevention program and a current photograph of the ADRD participant. Second, all dementia-specific services must be documented in the ADRD participant's file. The bill requires that an ADRD participant's plan of care be reviewed at least quarterly and notes regarding the services provided to the ADRD participant and the ADRD participant's activities be entered at least monthly in the ADRD participant's file. An ADRD participant, or the caregiver, is required to update the participant's medical documentation at least annually and the center must place that documentation in the ADRD participant's file.

The bill requires an adult day care center with a licensure designation to provide certain information to each person who enrolls as an ADRD participant in the center or to that person's caregiver. Additionally, if the ADRD participant's enrollment in the center is involuntarily

terminated due to medical or behavioral reasons, the center must coordinate and execute appropriate discharge procedures, which are to be established by DOEA in rule.

The bill specifies that an adult day care center that chooses not to have its license designated under the Act may still provide adult day care services to persons who have Alzheimer's disease or other dementia-related disorders. However, an adult day care center may not claim to have a license or designated licensed to provide specialized Alzheimer's services unless it has received such licensure designation from the AHCA.

Finally, the bill provides rule-making authority to DOEA to administer the provisions of the bill.

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

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The provisions of this bill have no impact on municipalities or counties under the requirements of Article VII, Section 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Article I, Section 24(a) and (b) of the Florida Constitution.

C. Trust Funds Restrictions:

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

This bill requires an adult day care center that has a designated licensed under the Specialized Alzheimer's Services Adult Day Care Act (Act) to maintain a staff-to-participant ratio of one staff member for every five ADRD participants. Currently, adult day care centers must maintain a staff-to-participant ratio of one staff member for every six participants.²² Accordingly, adult day care centers having a licensure designation under the Act may incur additional expenses due to the need to hire additional staff to meet the required staffing ratios. Since the bill prohibits an ADRD participant from administering his or her own medication, a center must have staff who are authorized by law to administer medication.

²² Rule 58A-6.006, F.A.C.

Additionally, this bill requires that certain staff have additional dementia-specific training if working in an adult day care center with a license designated under the Act. The bill does not specify the cost associated with the training or who is responsible for paying for the training; however, it appears there may be additional expenses incurred to the staff member in order to take the training.

C. **Government Sector Impact:**

None.

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

None.

VIII. **Additional Information:**

A. **Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS/CS by Health Regulation on January 25, 2012:

The committee substitute, for committee substitute (CS/CS), removes a licensure requirement and provides for the license of an adult day care center meeting requirements under the CS/CS to be *designated* as a specialized Alzheimer's services adult day care center. In addition, the CS/CS:

- Revises the definition of “ADRD participant,” relating to who diagnoses the participant with Alzheimer's disease or a dementia-related disorder.
- Defines the term “therapeutic activity.”
- Clarifies that an adult day care center applies to the AHCA for the designation at initial licensure or licensure renewal.
- Provides the AHCA with certain disciplinary authority.
- Provides that a document that discloses the specialty services provided by the adult day care center which relate to Alzheimer's disease or a dementia-related disorder must be made available to the public upon request.
- Conditions the participant's admission on whether transportation to and from the day care has been arranged for the participant.
- Clarifies that “supervisory experience” means “staff supervisory experience.”
- Requires the owner of the licensee to sign an affidavit that he or she has verified education and experience requirements have been completed by the operator or operator's designee.
- Requires staff, upon employment at an adult day care center with a specialty designation, to not only receive, but also review written information about interacting with adult day care center participants.

- Requires staff of an adult day care center with a specialty licensure designation to not only receive an orientation plan, but also review the plan.
- Clarifies that the caregiver is responsible for providing medical documentation about the participant to the adult day care center.
- Deletes redundant language in the bill requiring a review a participant's plan of care.

CS by Children, Families, and Elder Affairs on January 12, 2012:

The committee substitute:

- Prohibits an adult day care center from claiming to be licensed to provide specialized Alzheimer's services unless it has been licensed under the Specialized Alzheimer's Services Adult Day Care Act created by the bill;
- Changes the short title of the bill from the Alzheimer's Adult Day Care Dignity Act to the Specialized Alzheimer's Services Adult Day Care Act;
- Defines the term "ADRD participant";
- States that the licensure created by the bill is voluntary;
- Requires an adult day care center licensed under the bill 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 75 percent of the time, 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 DOEA to approve the training required under the bill and provides rulemaking authority to the DOEA 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;
- Removes certain redundant or overly-specific provisions of the bill;
- Changes several of the timing requirements in the bill so they are less burdensome; and
- Makes technical changes.

B. Amendments:

None.