

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 Children, Families, and Elder Affairs Committee

BILL: SB 694

INTRODUCER: Senator Fasano

SUBJECT: Adult Day Care Centers

DATE: January 11, 2012 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Daniell	Farmer	CF	Pre-meeting
2.	_____	_____	HR	_____
3.	_____	_____	BC	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill creates the Alzheimer’s Adult Day Care Dignity Act (Act), which allows an adult day care center to seek licensure as an adult day care center that specializes in Alzheimer’s disease services.

The bill provides heightened requirements that an adult day care center seeking licensure must follow. Additionally, the operator of an adult day care center licensed under the Act must:

- Have a bachelor’s degree in health care services, social services, or a related field, one year of supervisory experience in a social services or health care services setting, and a minimum of one year of experience in providing dementia-specific services;
- Be a licensed or registered nurse, have one year of supervisory experience in a social services or health care services setting, and a minimum of one year of experience in providing dementia-specific services; or
- Have five years of supervisory experience in a social services or health care services setting and a minimum of three years of experience in providing dementia-specific services.

The bill requires that an adult day care center licensed under the Act have a registered or licensed practical nurse on site during all hours of program operation, and that certain staff have additional hours of state-approved, dementia-specific training.

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

- Have a documented diagnosis of Alzheimer’s disease or a dementia-related disorder.
- Require ongoing supervision and have a documented need for a responsible party to oversee his or her care.
- Be mobile to the degree that the person can bear enough weight to assist in transferring himself or herself between seated and standing positions.
- Not require more than two staff members to safely transfer the person from a seated position to a standing position.
- Not actively demonstrate aggressive behavior that places himself, herself, or others at risk for harm.
- Provide certain medical documentation signed by a licensed physician or health care provider.

The bill provides requirements for a participant’s plan of care and additional requirements that an adult day care center must follow. The bill prohibits an adult day care center from using the term “adult day care – specialized Alzheimer’s services” unless licensed under the Act, and the bill prohibits an adult day care center from advertising that it provides specialized care for persons with Alzheimer’s disease unless the center is licensed under the Act.

The bill provides rulemaking authority to the Department of Elder Affairs to administer the newly created section of law.

This bill creates an unnumbered section of the 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

¹ Alzheimer’s Foundation of America, *About Alzheimer’s, Definition of Alzheimer’s*, <http://www.alzfdn.org/AboutAlzheimers/definition.html> (last visited Aug. 2, 2011).

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 Aug. 2, 2011).

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 Aug. 3, 2011).

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 Jan. 10, 2012).

to rise to 959,000 new cases of Alzheimer's disease by 2050, a 130-percent increase from 2000.⁵ 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. 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 Agency for Health Care Administration (AHCA or agency) 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 agency 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

⁵ *Id.*

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 Admin., *2012 Bill Analysis & Economic Impact Statement, SB 694* (on file with the Senate Committee on Children, Families, and Elder Affairs).

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."

day care center must have functional impairments and be in need of a protective environment 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 one hour within the first three months after employment, and staff who provides direct care to those same participants must complete an additional three 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 agency 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 Alzheimer's Adult Day Care Dignity Act (Act), which allows an adult day care center to seek licensure as an adult day care center that specializes in Alzheimer's disease 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.

In order for an adult day care center to seek licensure under the Act, it 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 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 participants.
- Provide a program for therapeutic activity at least 70 percent of the time.
- 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 updated annually.
- Create an individualized plan of care for each participant, which addresses the identified, dementia-specific needs of the participant and the caregiver. The plan of care must be reviewed monthly.
- Conduct a monthly health assessment of the participant, which includes the participant's weight, vital signs, and level of assistance needed with activities of daily living.
- Complete a monthly narrative in the participant's file regarding the 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 participant or caregiver.
- Offer, facilitate, or provide referrals to a support group for persons who are caregivers.
- Provide to participants and caregivers at least one dementia-specific educational program every three months.
- Conduct and document at least three times a day a count of all participants present in the center.
- Be a secured unit or having working, audible alarm devices installed on every door that provides egress from the center and is accessible to the participants.
- Not allow a participant to administer his or her own medication.
- Not allow a participant to drive himself or herself to or from the center.

All operators of an adult day care center licensed under the Act must:

- Have a bachelor's degree in health care services, social services, or a related field, one year of supervisory experience in a social services or health care services setting, and a minimum of one year of experience in providing dementia-specific services;
- Be a licensed or registered nurse, have one year of supervisory experience in a social services or health care services setting, and a minimum of one year of experience in providing dementia-specific services; or
- Have five years of supervisory experience in a social services or health care services setting and a minimum of three years of experience in providing dementia-specific services.

There is not a provision in the bill that would allow current operators of adult day care centers to be exempt from these educational and experience requirements. Accordingly, if a current operator of an adult day care center seeks licensure for the center under the Act, the operator must meet the above requirements.

The bill requires that a registered or licensed practical nurse be on site during all hours of program operation. Additionally, every employee who has direct contact with participants must complete four hours of state-approved, dementia-specific training within the first three months of employment, and employees who provide direct care to participants must complete an additional four hours of training in dementia within six months of employment. Also, a staff member who provides direct care to a participant must provide hands-on assistance and care with the participant's activities of daily living.

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 be licensed under the Act, then staff at that center would be required to meet the additional requirements provided for in this bill.

The bill requires a plan for staff orientation, which must include:

- Information regarding Alzheimer's disease and other dementia-related disorders.
- Procedures to locate a participant who has wandered from the center. These procedures must be reviewed at least once every three months with all direct care staff.
- Information on the Silver Alert program.
- Information regarding available products or programs used to identify participants or prevent them from wandering away from the center.

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

- Have a documented diagnosis of Alzheimer's disease or a dementia-related disorder.
- Require ongoing supervision and have a demonstrated need for a responsible party to oversee his or her care.
- Be mobile to the degree that the person can bear enough weight to assist in transferring himself or herself between seated and standing positions.
- Not require more than two staff members to safely transfer the person from a seated position to a standing position.
- Not actively demonstrate aggressive behavior that places himself, herself, or others at risk for harm.
- Provide certain medical documentation signed by a licensed physician or health care provider.

Also, before admitting a person as a 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 a 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 licensed under the Act. The data sheet must contain information regarding the status of the participant's enrollment in an identification or wandering-prevention program and a current photograph of the participant. Second, all dementia-specific services must be documented in a participant's file. The bill requires that a participant's plan of care be reviewed at least once a month and notes regarding the services provided to the participant and the participant's activities be entered at least monthly in the participant's file. A participant is required to update his or her medical documentation at least annually and the center must place that documentation in the participant's file.

The bill requires an adult day care center licensed under the Act to provide certain information to each person who enrolls as a participant in the center or to that person's caregiver. Additionally, if the participant's enrollment in the center is involuntarily terminated due to medical or behavioral reasons, the center shall coordinate and execute appropriate discharge procedures.

The bill prohibits any adult day care center not licensed under the Act from using the term "adult day care – specialized Alzheimer's services." Also, only an adult day care center licensed under the Act may advertise that the center provides specialized care for persons with Alzheimer's disease or other dementia-related disorders.

Finally, the bill defines the terms "dementia" and "specialized Alzheimer's services," and provides rule-making authority to the Department of Elder Affairs 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:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

This bill requires an adult day care center licensed under the Alzheimer's Adult Day Care Dignity Act (Act) to maintain a staff-to-participant ratio of one staff member for every five 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 licensed under the Act may incur additional expenses due to the need to hire additional staff to meet the required staffing ratios.

Additionally, this bill requires that staff having direct contact with or providing direct care to participants have additional dementia-specific training if working in an adult day care center licensed 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.

The bill provides educational and experience requirements that an operator of an adult day care center licensed under the Act must have. If a current operator of an adult day care center wishes to have his or her center licensed under the Act, but the operator does not meet the specified requirements, the operator may incur significant expenses to go back to school to obtain the required educational provisions.

C. Government Sector Impact:

The Agency for Health Care Administration (AHCA or agency) is responsible for the licensing and regulation of adult day care centers. This bill creates an additional license that an adult day care center that wishes to provide specialized Alzheimer's disease services may choose to obtain. The agency will be responsible for verifying licensure application material, reviewing training documentation during licensure inspections, and reviewing the additional regulatory requirements during on-site surveys for adult day care centers licensed under the Act. Accordingly, AHCA anticipates that it will require an additional surveyor position and possibly another full time Health Services and Facilities Consultant to implement the new specialty license.²³ The estimated fiscal impact of the bill is shown in the table on the next page.²⁴

²² Rule 58A-6.006, F.A.C.

²³ Agency for Health Care Admin., *supra* note 13.

²⁴ *Id.*

Total Revenues and Expenditures	Year 1 (FY 2012-13)	Year 2 (FY 2013-14)	Year 3 (FY 2014-15)
Sub-Total Recurring Revenues	\$--	\$--	\$--
Total Revenues	\$--	\$--	\$--
Sub-Total Non-Recurring Expenditures	\$7,972	\$--	\$--
Sub-Total Recurring Expenditures	\$52,285	\$94,204	\$94,204
Total Expenditures	\$60,257	\$94,204	\$94,204
Net Impact (Total Revenues minus Total Expenditures)	\$(60,257)	\$(94,204)	\$(94,204)

Also, the bill requires additional training requirements for certain staff employed at an adult day care center that obtains the specialty license created by this bill. This training must be approved by the Department of Elder Affairs (DOEA or department). According to DOEA, the “increased dementia-specific training requirements of this bill could be approved by the Department within the scope of the current contract that the Department has entered into pursuant to s. 429.917, F.S.”²⁵ Additionally, the department does not anticipate that the cost of curricula and trainer review and approval would be impacted by the enhanced training requirements in the bill.²⁶

VI. Technical Deficiencies:

Lines 123-136 of the bill provide educational and experience requirements that an operator of an adult day care center licensed under the Alzheimer’s Adult Day Care Dignity Act (Act) must have. Specifically, an operator must:

- Have a bachelor’s degree in specified fields, one year of supervisory experience in a social services or health care services setting, and a minimum of one year of experience in providing dementia-specific services;
- Be a licensed or registered nurse, have one year of supervisory experience in a social services or health care services setting, and a minimum of one year of experience in providing dementia-specific services; or
- Have five years of supervisory experience in a social services or health care services setting and a minimum of three years of experience in providing dementia-specific services.

²⁵ Fla. Dep’t of Elder Affairs, *2012 Legislative Bill Analysis, Senate Bill 694* (on file with the Senate Committee on Children, Families, and Elder Affairs).

²⁶ *Id.*

It does not appear that current operators of adult day care centers are subject to these requirements. The bill does not provide a clause to exempt current operators from these requirements (i.e., a “grandfather” clause). Therefore, it appears that all operators of centers wishing to be licensed under the Act – not just new operators – would have to meet the specified requirements of this bill.

Additionally, the bill provides heightened training requirements for certain staff employed at a center licensed under the Act (lines 143-148). The bill does not provide a clause to exempt current staff from these requirements. Therefore it appears that all staff specified in the bill – not just new staff – would need to meet the heightened training requirements of this bill.

The Legislature may wish to amend the bill to include language to exempt current operators and staff from the additional educational and training requirements in the bill.

Finally, the bill provides that only a center licensed under the Act may use the term “adult day care – specialized Alzheimer’s services” and advertise that the center provides specialized care for persons who have Alzheimer’s disease or other dementia-related disorders (lines 236-240). Under current law, an adult day care center is authorized to advertise or promote that it provides special care for persons who have Alzheimer’s disease or other related disorders.²⁷ The advertising provision of the bill would prohibit centers that do not opt to get the additional licensure created by this bill from advertising that the center provides care for persons who have Alzheimer’s disease or other dementia-related disorders. This provision could pose a problem to centers that distributed advertising literature prior to the passage of this bill, which states that the center provides such care and services. It is unclear if these centers could be penalized for previously-published advertisements or if the prohibition would apply only to advertising on or after the effective date.

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.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.

²⁷ Section 429.917(2), F.S.