

**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/SB 694

**INTRODUCER:** Children, Families, and Elder Affairs Committee, Senator Fasano, and others

**SUBJECT:** Adult Day Care Centers

**DATE:** January 23, 2012      **REVISED:** \_\_\_\_\_

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

**Please see Section VIII. for Additional Information:**

A. COMMITTEE SUBSTITUTE.....  Statement of Substantial Changes

B. AMENDMENTS.....  Technical amendments were recommended

Amendments were recommended

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 seek voluntary 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 such licensure must follow. The operator, and the operator's designee, hired on or after July 1, 2012, of an adult day care center licensed under the Act must meet certain education or experience requirements.

The bill requires that an adult day care center licensed under the Act 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 (ADRD) participants, and that certain staff have additional hours of dementia-specific training and receive an orientation plan.

In order for a person to be admitted to an adult day care center licensed under the Act, the person must require ongoing supervision, may not actively demonstrate aggressive behavior, and must provide certain medical documentation signed by a licensed physician or health care provider.

The bill provides requirements for an ADRD participant's plan of care and additional requirements that an adult day care center 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 become licensed 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 be licensed to provide specialized Alzheimer's services unless it has been licensed under the Act.

The bill provides rulemaking authority to the Department of Elder 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.<sup>1</sup> 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.<sup>2</sup>

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.<sup>3</sup> 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.<sup>4</sup> That number is expected to rise to 959,000 new cases of Alzheimer's disease by 2050, a 130 percent increase from 2000.<sup>5</sup> 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.<sup>6</sup>

---

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

<sup>2</sup> Michael Plontz, *A Brief History of Alzheimer's Disease*, TODAY'S CAREGIVER, [http://www.caregiver.com/channels/alz/articles/a\\_brief\\_history.htm](http://www.caregiver.com/channels/alz/articles/a_brief_history.htm) (last visited January 22, 2012).

<sup>3</sup> 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](http://www.alz.org/documents_custom/2011_Facts_Figures_Fact_Sheet.pdf) (last visited January 22, 2012).

<sup>4</sup> 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](http://www.alz.org/downloads/Facts_Figures_2011.pdf) (last visited Jan. 22, 2012).

<sup>5</sup> *Id.*

<sup>6</sup> *Id.* at 18.

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.<sup>7</sup> 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.<sup>8</sup> The total Medicaid spending for people with Alzheimer's disease (and other dementia) was estimated to be \$37 billion in 2011.<sup>9</sup>

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.<sup>10</sup> In 2010, there were 960,037 caregivers in Florida with an estimated value of unpaid care reaching nearly \$13.5 million.<sup>11</sup>

### **Adult Day Care Centers**

The Agency for Health Care Administration (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."<sup>12</sup> The AHCA currently licenses 202 adult day care centers throughout the state.<sup>13</sup>

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 participant<sup>14</sup> in an adult 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.<sup>15</sup> Centers are prohibited from accepting participants who require medication during the time spent at the center and who

---

<sup>7</sup> *Id.* at 35.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.* at 44.

<sup>10</sup> 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.

<sup>11</sup> *Id.* at 32.

<sup>12</sup> Section 429.901(1), F.S.

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

<sup>14</sup> 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."

<sup>15</sup> Agency for Health Care Admin., *supra* note 13.

are incapable of self-administration of medications, unless there is a person licensed to administer medications at the center.<sup>16</sup>

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.<sup>17</sup> 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.<sup>18</sup>

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.<sup>19</sup> 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.<sup>20</sup> 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.<sup>21</sup>

### 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 voluntary licensure as an adult day care center that specializes in Alzheimer's disease services.

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 or a

---

<sup>16</sup> Rule 58A-6.006, F.A.C.

<sup>17</sup> Rule 58A-6.008, F.A.C.

<sup>18</sup> Rule 58A-6.006, F.A.C.

<sup>19</sup> Section 429.917(2), F.S.

<sup>20</sup> Section 429.917(1), F.S.

<sup>21</sup> Agency for Health Care Admin., *supra* note 13.

health care provider who is under the direct supervision of a licensed physician.” The bill also defines the terms “dementia” and “specialized Alzheimer’s services.”

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 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.
- Not allow an ADRD participant to drive himself or herself to or from the center.

All operators, and the operator’s designee, of an adult day care center licensed under the Act hired on or after July 1, 2012, must:

- Have at least 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 1 year of experience in providing dementia-specific services;
- Be a registered or practical nurse licensed in Florida, have one year of 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 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 or licensed practical nurse 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 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, shall complete four hours of dementia-specific training within the first 3 months of 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 of 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 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 that each employee hired on or after July 1, 2012, who provides direct care to ADRD participants, receive 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 licensed 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.
- Provide certain medical documentation signed by a licensed physician or health care provider.

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 licensed under the Act. 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 is required to update his or her 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 licensed under the Act 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 shall coordinate and execute appropriate discharge procedures.

The bill specifies that an adult day care center that chooses not to become licensed 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 be licensed to provide specialized Alzheimer's services unless it has been licensed under the Act.

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:**

Section 429.907(3), F.S., provides that in accordance with s. 408.805, F.S., an applicant or licensee shall pay a fee for each license application submitted under part III, ch. 429, F.S., and under part II, ch. 408, F.S., and the amount of the fee must be established by rule and may not exceed \$150. Therefore, the applicant for an adult day care center-specialized Alzheimer's services license may be subject to a licensure fee that may not exceed \$150. However, s. 429.907(4), F.S., provides that county-operated or municipally operated centers applying for licensure under part III, ch. 429, F.S., are exempt from the payment of license fees.

**B. Private Sector Impact:**

This bill requires an adult day care center 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.<sup>22</sup> 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. Since the bill prohibits an ADRD participant from administering his or her own medication, a center licensed under this Act must have staff who are authorized by law to administer medication.

Additionally, this bill requires that certain staff 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.

**C. Government Sector Impact:**

The AHCA 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 AHCA 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, the AHCA anticipates that it will require a Health Services and Facilities Consultant to double his or her work hours to implement the new specialty license.<sup>23</sup> The DOH estimates that the bill would have the following negative fiscal impact on the DOH:

- \$33,610 for FY 2012-13.
- \$31,786 for FY 2013-14.

---

<sup>22</sup> Rule 58A-6.006, F.A.C.

<sup>23</sup> Agency for Health Care Admin., *supra* note 13.



- \$31,786 for FY 2014-15.<sup>24</sup>

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 DOEA. 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.”<sup>25</sup> Additionally, the DOEA does not anticipate that the cost of curricula and trainer review and approval would be impacted by the enhanced training requirements in the bill.<sup>26</sup>

## VI. Technical Deficiencies:

In line 70 of the bill, the word “certification” should be changed to “licensure” to conform to other provisions in the bill.

Lines 124-128 of the bill require an adult day care center seeking specialized Alzheimer’s services licensure to create and review at least quarterly an individualized plan of care for ADRD participants. Lines 260-261 also require an ADRD participant’s plan of care to be reviewed at least quarterly. Because lines 260-261 contain a redundancy, the language relating to reviewing the ADRD participant’s plan of care should be deleted.

## VII. Related Issues:

In lines 105 and 112, the terms “therapeutic activity” and “therapeutic activities” appear, but they are not defined. It may be beneficial to define these terms in order for adult day care centers to understand what types of activities are required for adult day care center-specialized Alzheimer’s services licensure.

Lines 160-161 of the bill require an adult day care seeking a specialized Alzheimer’s services license to not allow an ADRD participant to drive him or herself to or from the center. It is unclear how the center may enforce this provision.

Lines 175-178 of the bill require an operator of an adult day care having a specialized Alzheimer’s services license to have 5 years of “supervisory experience” in a social services or health care services setting. It is not clear whether the supervisory experience is meant to be over staff or over those receiving the social or health care services.

Lines 187 and 212 of the bill provide that employees of an adult day care center with a specialized Alzheimer’s services license must receive certain documentation, but does not require them to review the documentation. If the intent is to require employees to review such documentation, then the bill should specify that the documentation is to also be reviewed.

---

<sup>24</sup> *Id.*

<sup>25</sup> Fla. Dep’t of Elder Affairs, *2012 Legislative Bill Analysis, Senate Bill 694* (on file with the Senate Committee on Health Regulation).

<sup>26</sup> *Id.*

Lines 221-222 and 237-240 of the bill require an ADRD participant admitted to an adult day care center with a specialized Alzheimer's services license to provide certain documentation and lines 267-270 of the bill require the participant to provide the center with updated medical documentation. It is likely that the participant's caregiver would be the person providing such documentation and therefore, the bill should be amended to allow for such documentation to be provided by the caregiver.

### **VIII. Additional Information:**

#### **A. Committee Substitute – Statement of Substantial Changes:** (Summarizing differences between the Committee Substitute and the prior version of the bill.)

##### **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.

---

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

---