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588-01793A-13

Proposed Committee Substitute by the Committee on Health Policy

A bill to be entitled

An act relating to assisted living facilities;  
amending s. 394.4574, F.S.; providing that Medicaid  
prepaid behavioral health plans are responsible for  
enrolled mental health residents; providing that  
managing entities under contract with the Department  
of Children and Families are responsible for mental  
health residents who are not enrolled with a Medicaid  
prepaid behavioral health plan; deleting a provision  
to conform to changes made by the act; requiring that  
the community living support plan be completed and  
provided to the administrator of a facility upon the  
mental health resident's admission; requiring the  
community living support plan to be updated when there  
is a significant change to the mental health  
resident's behavioral health; requiring the case  
manager assigned to a mental health resident of an  
assisted living facility that holds a limited mental  
health license to keep a record of the date and time  
of face-to-face interactions with the resident and to  
make the record available to the responsible entity  
for inspection; requiring that the record be  
maintained for a specified time; requiring the  
responsible entity to ensure that there is adequate  
and consistent monitoring and enforcement of community  
living support plans and cooperative agreements and  
that concerns are reported to the appropriate  
regulatory oversight organization under certain



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29 circumstances; amending s. 400.0074, F.S.; providing  
30 that an administrative assessment conducted by a local  
31 council be comprehensive in nature and focus on  
32 factors affecting the rights, health, safety, and  
33 welfare of the residents of a nursing home; requiring  
34 a local council to conduct an exit consultation with  
35 the facility administrator or administrator designee  
36 to discuss issues and concerns in areas affecting  
37 rights, health, safety, and welfare of residents and  
38 make recommendations for improvement; amending s.  
39 400.0078, F.S.; requiring that residents of long-term  
40 care facilities be informed that retaliatory action  
41 cannot be taken against a resident for presenting  
42 grievances or for exercising any other resident right;  
43 amending s. 429.07, F.S.; providing that an extended  
44 congregate care license is issued to certain  
45 facilities that have been licensed as assisted living  
46 facilities under certain circumstances; providing the  
47 purpose of an extended congregate care license;  
48 providing that the initial extended congregate care  
49 license of an assisted living facility is provisional  
50 under certain circumstances; requiring the licensee to  
51 notify the Agency for Health Care Administration  
52 whenever it accepts a resident who qualifies for  
53 extended congregate care services; requiring the  
54 agency to inspect the facility for compliance with the  
55 requirements of an extended congregate care license;  
56 authorizing the agency to waive one of the required  
57 yearly monitoring visits under certain circumstances;



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58 authorizing the agency to deny or revoke a facility's  
59 extended congregate care license for certain reasons  
60 or on certain grounds; requiring a registered nurse  
61 representing the agency to visit the facility at least  
62 annually, rather than twice a year, to monitor  
63 residents who are receiving limited nursing services;  
64 providing that the agency's monitoring visits may be  
65 in conjunction with other agency inspections;  
66 authorizing the agency to waive one of the required  
67 yearly monitoring visits for certain facilities;  
68 amending s. 429.075, F.S.; requiring an assisted  
69 living facility that serves one or more mental health  
70 residents to obtain a limited mental health license;  
71 amending s. 429.14, F.S.; revising the actions in  
72 which the agency may deny, revoke, or suspend the  
73 license of an assisted living facility and impose an  
74 administrative fine; revising the criteria upon which  
75 the agency must deny or revoke the license of an  
76 assisted living facility; requiring the agency to  
77 impose an immediate moratorium on the license of an  
78 assisted living facility under certain circumstances;  
79 deleting a provision requiring the agency to provide a  
80 list of facilities with denied, suspended, or revoked  
81 licenses to the Department of Business and  
82 Professional Regulation; exempting a facility from the  
83 45-day notice requirement if it is required to  
84 relocate some or all of its residents; amending s.  
85 429.178, F.S.; conforming cross-references; amending  
86 s. 429.19, F.S.; revising the amounts and uses of



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87 administrative fines; requiring the agency to levy a  
88 fine for violations that are corrected before an  
89 inspection if noncompliance occurred within a  
90 specified period of time; deleting factors that the  
91 agency is required to consider to determine penalties  
92 and fines; amending s. 429.28, F.S.; requiring that  
93 residents of facilities be informed that the identity  
94 of the resident and complainant in a complaint made to  
95 the State Long-Term Care Ombudsman Program are  
96 confidential and that retaliatory action cannot be  
97 taken against a resident for presenting grievances or  
98 for exercising any other resident right; providing  
99 that a facility that terminates an individual's  
100 residency is fined if good cause is not shown in  
101 court; amending s. 429.34, F.S.; requiring certain  
102 persons to report elder abuse in assisted living  
103 facilities; requiring the agency to regularly inspect  
104 every licensed assisted living facility; requiring the  
105 agency to conduct more frequent inspections under  
106 certain circumstances; requiring the licensee to pay a  
107 fee for the cost of additional inspections; requiring  
108 the agency to adjust the fee; amending s. 429.52,  
109 F.S.; requiring each newly hired employee of an  
110 assisted living facility to attend a preservice  
111 orientation provided by the assisted living facility;  
112 requiring the employee and administrator to sign an  
113 affidavit upon completion of the preservice  
114 orientation; requiring the assisted living facility to  
115 maintain the signed affidavit in each employee's work



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116 file; conforming a cross-reference; requiring the  
117 Agency for Health Care Administration to study the  
118 reliability of facility surveys and submit to the  
119 Governor and the Legislature its findings and  
120 recommendations; requiring the agency to propose a  
121 rating system of assisted living facilities for  
122 consumers and create content for the agency's website  
123 that makes available to consumers information  
124 regarding assisted living facilities; providing  
125 criteria for the content; providing an effective date.  
126

127 Be It Enacted by the Legislature of the State of Florida:  
128

129 Section 1. Section 394.4574, Florida Statutes, is amended  
130 to read:

131 394.4574 ~~Department~~ Responsibilities for coordination of  
132 services for a mental health resident who resides in an assisted  
133 living facility that holds a limited mental health license.—

134 (1) As used in this section, the term "mental health  
135 resident" ~~"mental health resident," for purposes of this~~  
136 ~~section,~~ means an individual who receives social security  
137 disability income due to a mental disorder as determined by the  
138 Social Security Administration or receives supplemental security  
139 income due to a mental disorder as determined by the Social  
140 Security Administration and receives optional state  
141 supplementation.

142 (2) Medicaid prepaid behavioral health plans are  
143 responsible for enrolled mental health residents, and managing  
144 entities under contract with the department are responsible for



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145 mental health residents who are not enrolled with a Medicaid  
146 prepaid behavioral health plan. Each responsible entity shall  
147 ~~The department must~~ ensure that:

148 (a) A mental health resident has been assessed by a  
149 psychiatrist, clinical psychologist, clinical social worker, or  
150 psychiatric nurse, or an individual who is supervised by one of  
151 these professionals, and determined to be appropriate to reside  
152 in an assisted living facility. The documentation must be  
153 provided to the administrator of the facility within 30 days  
154 after the mental health resident has been admitted to the  
155 facility. An evaluation completed upon discharge from a state  
156 mental hospital meets the requirements of this subsection  
157 related to appropriateness for placement as a mental health  
158 resident if it was completed within 90 days before ~~prior to~~  
159 admission to the facility.

160 (b) A cooperative agreement, as required in s. 429.075, is  
161 developed between the mental health care services provider that  
162 serves a mental health resident and the administrator of the  
163 assisted living facility with a limited mental health license in  
164 which the mental health resident is living. ~~Any entity that~~  
165 ~~provides Medicaid prepaid health plan services shall ensure the~~  
166 ~~appropriate coordination of health care services with an~~  
167 ~~assisted living facility in cases where a Medicaid recipient is~~  
168 ~~both a member of the entity's prepaid health plan and a resident~~  
169 ~~of the assisted living facility. If the entity is at risk for~~  
170 ~~Medicaid targeted case management and behavioral health~~  
171 ~~services, the entity shall inform the assisted living facility~~  
172 ~~of the procedures to follow should an emergent condition arise.~~

173 (c) The community living support plan, as defined in s.



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174 429.02, has been prepared by a mental health resident and a  
175 mental health case manager of that resident in consultation with  
176 the administrator of the facility or the administrator's  
177 designee. The plan must be completed and provided to the  
178 administrator of the assisted living facility with a limited  
179 mental health license in which the mental health resident lives  
180 upon the resident's admission. The support plan and the  
181 agreement may be in one document.

182 (d) The assisted living facility with a limited mental  
183 health license is provided with documentation that the  
184 individual meets the definition of a mental health resident.

185 (e) The mental health services provider assigns a case  
186 manager to each mental health resident for whom the entity is  
187 responsible ~~who lives in an assisted living facility with a~~  
188 ~~limited mental health license~~. The case manager is responsible  
189 for coordinating the development of and implementation of the  
190 community living support plan defined in s. 429.02. The plan  
191 must be updated at least annually, or when there is a  
192 significant change to the resident's behavioral health status,  
193 such as an inpatient admission or a change in behavioral status,  
194 medications, level of service, or residence. Each case manager  
195 shall keep a record of the date and time of any face-to-face  
196 interaction with the resident and make the record available to  
197 the responsible entity for inspection. The record must be  
198 retained for at least 2 years after the date of the most recent  
199 interaction.

200 (f) Adequate and consistent monitoring and enforcement of  
201 community living support plans and cooperative agreements are  
202 conducted by the resident's case manager.



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203       (g) Concerns are reported to the appropriate regulatory  
204 oversight organization if a regulated provider fails to deliver  
205 appropriate services or otherwise acts in a manner that has the  
206 potential to result in harm to the resident.

207       (3) The Secretary of Children and Family Services, in  
208 consultation with the Agency for Health Care Administration,  
209 shall ~~annually~~ require each district administrator to develop,  
210 with community input, a detailed annual plan that demonstrates  
211 ~~detailed plans that demonstrate~~ how the district will ensure the  
212 provision of state-funded mental health and substance abuse  
213 treatment services to residents of assisted living facilities  
214 that hold a limited mental health license. These plans must be  
215 consistent with the substance abuse and mental health district  
216 plan developed pursuant to s. 394.75 and must address case  
217 management services; access to consumer-operated drop-in  
218 centers; access to services during evenings, weekends, and  
219 holidays; supervision of the clinical needs of the residents;  
220 and access to emergency psychiatric care.

221       Section 2. Subsection (1) of section 400.0074, Florida  
222 Statutes, is amended, and paragraph (h) is added to subsection  
223 (2) of that section, to read:

224       400.0074 Local ombudsman council onsite administrative  
225 assessments.—

226       (1) In addition to any specific investigation conducted  
227 pursuant to a complaint, the local council shall conduct, at  
228 least annually, an onsite administrative assessment of each  
229 nursing home, assisted living facility, and adult family-care  
230 home within its jurisdiction. This administrative assessment  
231 must be comprehensive in nature and must ~~shall~~ focus on factors





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232 affecting the rights, health, safety, and welfare of the  
233 residents. Each local council is encouraged to conduct a similar  
234 onsite administrative assessment of each additional long-term  
235 care facility within its jurisdiction.

236 (2) An onsite administrative assessment conducted by a  
237 local council shall be subject to the following conditions:

238 (h) The local council shall conduct an exit consultation  
239 with the facility administrator or administrator designee to  
240 discuss issues and concerns in areas affecting the rights,  
241 health, safety, and welfare of the residents and make  
242 recommendations for improvement, if any.

243 Section 3. Subsection (2) of section 400.0078, Florida  
244 Statutes, is amended to read:

245 400.0078 Citizen access to State Long-Term Care Ombudsman  
246 Program services.—

247 (2) ~~Every resident or representative of a resident shall~~  
248 ~~receive,~~ Upon admission to a long-term care facility, each  
249 resident or representative of a resident must receive  
250 information regarding the purpose of the State Long-Term Care  
251 Ombudsman Program, the statewide toll-free telephone number for  
252 receiving complaints, information that retaliatory action cannot  
253 be taken against a resident for presenting grievances or for  
254 exercising any other resident right, and other relevant  
255 information regarding how to contact the program. Residents or  
256 their representatives must be furnished additional copies of  
257 this information upon request.

258 Section 4. Paragraphs (b) and (c) of subsection (3) of  
259 section 429.07, Florida Statutes, are amended to read:

260 429.07 License required; fee.—



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261 (3) In addition to the requirements of s. 408.806, each  
262 license granted by the agency must state the type of care for  
263 which the license is granted. Licenses shall be issued for one  
264 or more of the following categories of care: standard, extended  
265 congregate care, limited nursing services, or limited mental  
266 health.

267 (b) An extended congregate care license shall be issued to  
268 facilities that have been licensed as assisted living facilities  
269 for 2 or more years and that provide ~~providing~~, directly or  
270 through contract, services beyond those authorized in paragraph  
271 (a), including services performed by persons licensed under part  
272 I of chapter 464 and supportive services, as defined by rule, to  
273 persons who would otherwise be disqualified from continued  
274 residence in a facility licensed under this part. An extended  
275 congregate care license may also be issued to those facilities  
276 that have provisional extended congregate care licenses and meet  
277 the requirements for licensure under subparagraph 2. The primary  
278 purpose of extended congregate care services is to allow  
279 residents, as they become more impaired, the option of remaining  
280 in a familiar setting from which they would otherwise be  
281 disqualified for continued residency. A facility licensed to  
282 provide extended congregate care services may also admit an  
283 individual who exceeds the admission criteria for a facility  
284 with a standard license, if the individual is determined  
285 appropriate for admission to the extended congregate care  
286 facility.

287 1. In order for extended congregate care services to be  
288 provided, the agency must first determine that all requirements  
289 established in law and rule are met and must specifically



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290 designate, on the facility's license, that such services may be  
291 provided and whether the designation applies to all or part of  
292 the facility. Such designation may be made at the time of  
293 initial licensure or relicensure, or upon request in writing by  
294 a licensee under this part and part II of chapter 408. The  
295 notification of approval or the denial of the request shall be  
296 made in accordance with part II of chapter 408. Existing  
297 facilities qualifying to provide extended congregate care  
298 services must have maintained a standard license and may not  
299 have been subject to administrative sanctions during the  
300 previous 2 years, or since initial licensure if the facility has  
301 been licensed for less than 2 years, for any of the following  
302 reasons:

- 303 a. A class I or class II violation;
- 304 b. Three or more repeat or recurring class III violations  
305 of identical or similar resident care standards from which a  
306 pattern of noncompliance is found by the agency;
- 307 c. Three or more class III violations that were not  
308 corrected in accordance with the corrective action plan approved  
309 by the agency;
- 310 d. Violation of resident care standards which results in  
311 requiring the facility to employ the services of a consultant  
312 pharmacist or consultant dietitian;
- 313 e. Denial, suspension, or revocation of a license for  
314 another facility licensed under this part in which the applicant  
315 for an extended congregate care license has at least 25 percent  
316 ownership interest; or
- 317 f. Imposition of a moratorium pursuant to this part or part  
318 II of chapter 408 or initiation of injunctive proceedings.



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319       2. If an assisted living facility has been licensed for  
320 less than 2 years but meets all other licensure requirements for  
321 an extended congregate care license, it shall be issued a  
322 provisional extended congregate care license for a period of 6  
323 months. Within the first 3 months after the provisional license  
324 is issued, the licensee shall notify the agency when it has  
325 admitted an extended congregate care resident, after which an  
326 unannounced inspection shall be made to determine compliance  
327 with requirements of an extended congregate care license. If the  
328 licensee demonstrates compliance with all of the requirements of  
329 an extended congregate care license during the inspection, the  
330 licensee shall be issued an extended congregate care license. In  
331 addition to sanctions authorized under this part, if violations  
332 are found during the inspection and the licensee fails to  
333 demonstrate compliance with all assisted living requirements  
334 during a followup inspection, the licensee shall immediately  
335 suspend extended congregate care services, and the provisional  
336 extended congregate care license expires.

337       3.2. A facility that is licensed to provide extended  
338 congregate care services shall maintain a written progress  
339 report on each person who receives services which describes the  
340 type, amount, duration, scope, and outcome of services that are  
341 rendered and the general status of the resident's health. A  
342 registered nurse, or appropriate designee, representing the  
343 agency shall visit the facility at least twice a year ~~quarterly~~  
344 to monitor residents who are receiving extended congregate care  
345 services and to determine if the facility is in compliance with  
346 this part, part II of chapter 408, and relevant rules. One of  
347 the visits may be in conjunction with the regular survey. The



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348 monitoring visits may be provided through contractual  
349 arrangements with appropriate community agencies. A registered  
350 nurse shall serve as part of the team that inspects the  
351 facility. The agency may waive one of the required yearly  
352 monitoring visits for a facility ~~that has been licensed for at~~  
353 ~~least 24 months to provide extended congregate care services,~~  
354 ~~if, during the inspection, the registered nurse determines that~~  
355 ~~extended congregate care services are being provided~~  
356 ~~appropriately, and if the facility has held an extended~~  
357 ~~congregate care license during the last 24 months, has had no~~  
358 ~~class I or class II violations, has had and no uncorrected class~~  
359 ~~III violations, and has had no confirmed ombudsman council~~  
360 ~~complaints that resulted in a citation for licensure. The agency~~  
361 ~~must first consult with the long-term care ombudsman council for~~  
362 ~~the area in which the facility is located to determine if any~~  
363 ~~complaints have been made and substantiated about the quality of~~  
364 ~~services or care. The agency may not waive one of the required~~  
365 ~~yearly monitoring visits if complaints have been made and~~  
366 ~~substantiated.~~

367 4.3. A facility that is licensed to provide extended  
368 congregate care services must:

369 a. Demonstrate the capability to meet unanticipated  
370 resident service needs.

371 b. Offer a physical environment that promotes a homelike  
372 setting, provides for resident privacy, promotes resident  
373 independence, and allows sufficient congregate space as defined  
374 by rule.

375 c. Have sufficient staff available, taking into account the  
376 physical plant and firesafety features of the building, to



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377 assist with the evacuation of residents in an emergency.

378 d. Adopt and follow policies and procedures that maximize  
379 resident independence, dignity, choice, and decisionmaking to  
380 permit residents to age in place, so that moves due to changes  
381 in functional status are minimized or avoided.

382 e. Allow residents or, if applicable, a resident's  
383 representative, designee, surrogate, guardian, or attorney in  
384 fact to make a variety of personal choices, participate in  
385 developing service plans, and share responsibility in  
386 decisionmaking.

387 f. Implement the concept of managed risk.

388 g. Provide, directly or through contract, the services of a  
389 person licensed under part I of chapter 464.

390 h. In addition to the training mandated in s. 429.52,  
391 provide specialized training as defined by rule for facility  
392 staff.

393 ~~5.4.~~ A facility that is licensed to provide extended  
394 congregate care services is exempt from the criteria for  
395 continued residency set forth in rules adopted under s. 429.41.  
396 A licensed facility must adopt its own requirements within  
397 guidelines for continued residency set forth by rule. However,  
398 the facility may not serve residents who require 24-hour nursing  
399 supervision. A licensed facility that provides extended  
400 congregate care services must also provide each resident with a  
401 written copy of facility policies governing admission and  
402 retention.

403 ~~5. The primary purpose of extended congregate care services~~  
404 ~~is to allow residents, as they become more impaired, the option~~  
405 ~~of remaining in a familiar setting from which they would~~



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406 ~~otherwise be disqualified for continued residency. A facility~~  
407 ~~licensed to provide extended congregate care services may also~~  
408 ~~admit an individual who exceeds the admission criteria for a~~  
409 ~~facility with a standard license, if the individual is~~  
410 ~~determined appropriate for admission to the extended congregate~~  
411 ~~care facility.~~

412 6. Before the admission of an individual to a facility  
413 licensed to provide extended congregate care services, the  
414 individual must undergo a medical examination as provided in s.  
415 429.26(4) and the facility must develop a preliminary service  
416 plan for the individual.

417 7. ~~If~~ When a facility can no longer provide or arrange for  
418 services in accordance with the resident's service plan and  
419 needs and the facility's policy, the facility must ~~shall~~ make  
420 arrangements for relocating the person in accordance with s.  
421 429.28(1)(k).

422 ~~8. Failure to provide extended congregate care services may~~  
423 ~~result in denial of extended congregate care license renewal.~~

424  
425 The agency may deny or revoke a facility's extended congregate  
426 care license for not meeting the standards of an extended  
427 congregate care license or for any of the grounds listed in this  
428 subsection.

429 (c) A limited nursing services license shall be issued to a  
430 facility that provides services beyond those authorized in  
431 paragraph (a) and as specified in this paragraph.

432 1. In order for limited nursing services to be provided in  
433 a facility licensed under this part, the agency must first  
434 determine that all requirements established in law and rule are



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435 met and must specifically designate, on the facility's license,  
436 that such services may be provided. Such designation may be made  
437 at the time of initial licensure or licensure renewal  
438 ~~relicensure~~, or upon request in writing by a licensee under this  
439 part and part II of chapter 408. Notification of approval or  
440 denial of such request shall be made in accordance with part II  
441 of chapter 408. An existing facility that qualifies facilities  
442 ~~qualifying~~ to provide limited nursing services must ~~shall~~ have  
443 maintained a standard license and may not have been subject to  
444 administrative sanctions that affect the health, safety, and  
445 welfare of residents for the previous 2 years or since initial  
446 licensure if the facility has been licensed for less than 2  
447 years.

448 2. A facility ~~Facilities~~ that is ~~are~~ licensed to provide  
449 limited nursing services shall maintain a written progress  
450 report on each person who receives such nursing services. The  
451 ~~which~~ report must describe ~~describes~~ the type, amount, duration,  
452 scope, and outcome of services that are rendered and the general  
453 status of the resident's health. A registered nurse representing  
454 the agency shall visit the facility ~~such facilities~~ at least  
455 annually ~~twice a year~~ to monitor residents who are receiving  
456 limited nursing services and to determine if the facility is in  
457 compliance with applicable provisions of this part, part II of  
458 chapter 408, and related rules. The monitoring visits may be  
459 provided through contractual arrangements with appropriate  
460 community agencies. A registered nurse shall also serve as part  
461 of the team that inspects such facility. Visits may be in  
462 conjunction with other agency inspections. The agency may waive  
463 one of the required yearly monitoring visits for a facility that





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464 has:

465 a. A limited nursing services license for at least 24  
466 months;

467 b. No class I or class II violations and no uncorrected  
468 class III violations; and

469 c. No confirmed ombudsman council complaints that resulted  
470 in a citation for licensure.

471 3. A person who receives limited nursing services under  
472 this part must meet the admission criteria established by the  
473 agency for assisted living facilities. When a resident no longer  
474 meets the admission criteria for a facility licensed under this  
475 part, arrangements for relocating the person shall be made in  
476 accordance with s. 429.28(1)(k), unless the facility is licensed  
477 to provide extended congregate care services.

478 Section 5. Section 429.075, Florida Statutes, is amended to  
479 read:

480 429.075 Limited mental health license.—An assisted living  
481 facility that serves one ~~three~~ or more mental health residents  
482 must obtain a limited mental health license.

483 (1) To obtain a limited mental health license, a facility  
484 must hold a standard license as an assisted living facility,  
485 must not have any current uncorrected ~~deficiencies or~~  
486 violations, and must ensure that, within 6 months after  
487 receiving a limited mental health license, the facility  
488 administrator and the staff of the facility who are in direct  
489 contact with mental health residents must complete training of  
490 no less than 6 hours related to their duties. Such designation  
491 may be made at the time of initial licensure or relicensure or  
492 upon request in writing by a licensee under this part and part



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493 II of chapter 408. Notification of approval or denial of such  
494 request shall be made in accordance with this part, part II of  
495 chapter 408, and applicable rules. This training must ~~will~~ be  
496 provided by or approved by the Department of Children and Family  
497 Services.

498 (2) A facility that is ~~Facilities~~ licensed to provide  
499 services to mental health residents must ~~shall~~ provide  
500 appropriate supervision and staffing to provide for the health,  
501 safety, and welfare of such residents.

502 (3) A facility that has a limited mental health license  
503 must:

504 (a) Have a copy of each mental health resident's community  
505 living support plan and the cooperative agreement with the  
506 mental health care services provider. The support plan and the  
507 agreement may be combined.

508 (b) Have documentation that is provided by the Department  
509 of Children and Family Services that each mental health resident  
510 has been assessed and determined to be able to live in the  
511 community in an assisted living facility that has ~~with~~ a limited  
512 mental health license.

513 (c) Make the community living support plan available for  
514 inspection by the resident, the resident's legal guardian, the  
515 resident's health care surrogate, and other individuals who have  
516 a lawful basis for reviewing this document.

517 (d) Assist the mental health resident in carrying out the  
518 activities identified in the individual's community living  
519 support plan.

520 (4) A facility that has ~~with~~ a limited mental health  
521 license may enter into a cooperative agreement with a private



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522 mental health provider. For purposes of the limited mental  
523 health license, the private mental health provider may act as  
524 the case manager.

525 Section 6. Section 429.14, Florida Statutes, is amended to  
526 read:

527 429.14 Administrative penalties.—

528 (1) In addition to the requirements of part II of chapter  
529 408, the agency may deny, revoke, and suspend any license issued  
530 under this part and impose an administrative fine in the manner  
531 provided in chapter 120 against a licensee for a violation of  
532 any provision of this part, part II of chapter 408, or  
533 applicable rules, or for any of the following actions by a  
534 licensee, for the actions of any person subject to level 2  
535 background screening under s. 408.809, or for the actions of any  
536 facility staff ~~employee~~:

537 (a) An intentional or negligent act seriously affecting the  
538 health, safety, or welfare of a resident of the facility.

539 (b) A ~~The~~ determination by the agency that the owner lacks  
540 the financial ability to provide continuing adequate care to  
541 residents.

542 (c) Misappropriation or conversion of the property of a  
543 resident of the facility.

544 (d) Failure to follow the criteria and procedures provided  
545 under part I of chapter 394 relating to the transportation,  
546 voluntary admission, and involuntary examination of a facility  
547 resident.

548 (e) A citation of any of the following violations  
549 ~~deficiencies~~ as specified in s. 429.19:

550 1. One or more cited class I violations ~~deficiencies~~.



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551           2. Three or more cited class II violations ~~deficiencies~~.

552           3. Five or more cited class III violations ~~deficiencies~~

553 that have been cited on a single survey and have not been  
554 corrected within the times specified.

555           (f) Failure to comply with the background screening  
556 standards of this part, s. 408.809(1), or chapter 435.

557           (g) Violation of a moratorium.

558           (h) Failure of the license applicant, the licensee during  
559 relicensure, or a licensee that holds a provisional license to  
560 meet the minimum license requirements of this part, or related  
561 rules, at the time of license application or renewal.

562           (i) An intentional or negligent life-threatening act in  
563 violation of the uniform firesafety standards for assisted  
564 living facilities or other firesafety standards which ~~that~~  
565 threatens the health, safety, or welfare of a resident of a  
566 facility, as communicated to the agency by the local authority  
567 having jurisdiction or the State Fire Marshal.

568           (j) Knowingly operating any unlicensed facility or  
569 providing without a license any service that must be licensed  
570 under this chapter or chapter 400.

571           (k) Any act constituting a ground upon which application  
572 for a license may be denied.

573           (2) Upon notification by the local authority having  
574 jurisdiction or by the State Fire Marshal, the agency may deny  
575 or revoke the license of an assisted living facility that fails  
576 to correct cited fire code violations that affect or threaten  
577 the health, safety, or welfare of a resident of a facility.

578           (3) The agency may deny or revoke a license of an ~~to any~~  
579 applicant or controlling interest as defined in part II of



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580 chapter 408 which has or had a 25-percent or greater financial  
581 or ownership interest in any other facility that is licensed  
582 under this part, or in any entity licensed by this state or  
583 another state to provide health or residential care, if that  
584 ~~which~~ facility or entity during the 5 years prior to the  
585 application for a license closed due to financial inability to  
586 operate; had a receiver appointed or a license denied,  
587 suspended, or revoked; was subject to a moratorium; or had an  
588 injunctive proceeding initiated against it.

589 (4) The agency shall deny or revoke the license of an  
590 assisted living facility if:

591 (a) There are two moratoria, issued pursuant to this part  
592 or part II of chapter 408, within a 2-year period which are  
593 imposed by final order;

594 (b) The facility is cited for two or more class I  
595 violations arising from unrelated circumstances during the same  
596 survey or investigation; or

597 (c) The facility is cited for two or more class I  
598 violations arising from separate surveys or investigations  
599 within a 2-year period that has two or more class I violations  
600 that are similar or identical to violations identified by the  
601 agency during a survey, inspection, monitoring visit, or  
602 complaint investigation occurring within the previous 2 years.

603 (5) An action taken by the agency to suspend, deny, or  
604 revoke a facility's license under this part or part II of  
605 chapter 408, in which the agency claims that the facility owner  
606 or an employee of the facility has threatened the health,  
607 safety, or welfare of a resident of the facility must be heard  
608 by the Division of Administrative Hearings of the Department of



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609 Management Services within 120 days after receipt of the  
610 facility's request for a hearing, unless that time limitation is  
611 waived by both parties. The administrative law judge shall ~~must~~  
612 render a decision within 30 days after receipt of a proposed  
613 recommended order.

614 (6) The agency shall impose an immediate moratorium, as  
615 provided under s. 408.814, on an assisted living facility that  
616 fails to provide the agency access to the facility or prohibits  
617 the agency from conducting a regulatory inspection. The licensee  
618 may not restrict agency staff in accessing and copying records  
619 or in conducting confidential interviews with facility staff or  
620 any individual who receives services from the facility ~~provide~~  
621 ~~to the Division of Hotels and Restaurants of the Department of~~  
622 ~~Business and Professional Regulation, on a monthly basis, a list~~  
623 ~~of those assisted living facilities that have had their licenses~~  
624 ~~denied, suspended, or revoked or that are involved in an~~  
625 ~~appellate proceeding pursuant to s. 120.60 related to the~~  
626 ~~denial, suspension, or revocation of a license.~~

627 (7) Agency notification of a license suspension or  
628 revocation, or denial of a license renewal, shall be posted and  
629 visible to the public at the facility.

630 (8) If a facility is required to relocate some or all of  
631 its residents due to agency action, that facility is exempt from  
632 the 45 days' notice requirement in s. 429.28(1)(k). This  
633 provision does not exempt the facility from any deadlines for  
634 corrective action set by the agency.

635 Section 7. Paragraphs (a) and (b) of subsection (2) of  
636 section 429.178, Florida Statutes, are amended to read:

637 429.178 Special care for persons with Alzheimer's disease



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638 or other related disorders.-

639 (2) (a) An individual who is employed by a facility that  
640 provides special care for residents with Alzheimer's disease or  
641 other related disorders, and who has regular contact with such  
642 residents, must complete up to 4 hours of initial dementia-  
643 specific training developed or approved by the department. The  
644 training must ~~shall~~ be completed within 3 months after beginning  
645 employment and satisfy ~~shall satisfy~~ the core training  
646 requirements of s. 429.52(3)(g) ~~s. 429.52(2)(g)~~.

647 (b) A direct caregiver who is employed by a facility that  
648 provides special care for residents with Alzheimer's disease or  
649 other related disorders, and who provides direct care to such  
650 residents, must complete the required initial training and 4  
651 additional hours of training developed or approved by the  
652 department. The training must ~~shall~~ be completed within 9 months  
653 after beginning employment and satisfy ~~shall satisfy~~ the core  
654 training requirements of s. 429.52(3)(g) ~~s. 429.52(2)(g)~~.

655 Section 8. Section 429.19, Florida Statutes, is amended to  
656 read:

657 429.19 Violations; imposition of administrative fines;  
658 grounds.-

659 (1) In addition to the requirements of part II of chapter  
660 408, the agency shall impose an administrative fine in the  
661 manner provided in chapter 120 for the violation of any  
662 provision of this part, part II of chapter 408, and applicable  
663 rules by an assisted living facility, for the actions of any  
664 person subject to level 2 background screening under s. 408.809,  
665 for the actions of any facility employee, or for an intentional  
666 or negligent act seriously affecting the health, safety, or



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667 welfare of a resident of the facility.

668 (2) Each violation of this part and adopted rules must  
669 ~~shall~~ be classified according to the nature of the violation and  
670 the gravity of its probable effect on facility residents. The  
671 agency shall indicate the classification on the written notice  
672 of the violation as follows:

673 (a) Class "I" violations are defined in s. 408.813. The  
674 agency shall impose an administrative fine of \$7,500 for each a  
675 cited class I violation in a facility that is licensed for fewer  
676 than 100 beds at the time of the violation in an amount not less  
677 than \$5,000 and not exceeding \$10,000 for each violation. The  
678 agency shall impose an administrative fine of \$11,250 for each  
679 cited class I violation in a facility that is licensed for 100  
680 or more beds at the time of the violation. If the noncompliance  
681 occurs within the prior 12 months, the fine must be levied for  
682 violations that are corrected before an inspection.

683 (b) Class "II" violations are defined in s. 408.813. The  
684 agency shall impose an administrative fine of \$3,000 for each a  
685 cited class II violation in a facility that is licensed for  
686 fewer than 100 beds at the time of the violation in an amount  
687 not less than \$1,000 and not exceeding \$5,000 for each  
688 violation. The agency shall impose an administrative fine of  
689 \$4,500 for each cited class II violation in a facility that is  
690 licensed for 100 or more beds at the time of the violation.

691 (c) Class "III" violations are defined in s. 408.813. The  
692 agency shall impose an administrative fine of \$750 for each a  
693 cited class III violation in a facility that is licensed for  
694 fewer than 100 beds at the time of the violation in an amount  
695 not less than \$500 and not exceeding \$1,000 for each violation.





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696 The agency shall impose an administrative fine of \$1,125 for  
697 each cited class III violation in a facility that is licensed  
698 for 100 or more beds at the time of the violation.

699 (d) Class "IV" violations are defined in s. 408.813. The  
700 agency shall impose an administrative fine of \$150 for each a  
701 cited class IV violation in a facility that is licensed for  
702 fewer than 100 beds at the time of the violation in an amount  
703 not less than \$100 and not exceeding \$200 for each violation.  
704 The agency shall impose an administrative fine of \$225 for each  
705 cited class IV violation in a facility that is licensed for 100  
706 or more beds at the time of the violation.

707 (e) Any fine imposed for class I and class II violations  
708 must be doubled if a facility was previously cited for one or  
709 more class I or class II violations during the agency's last  
710 licensure inspection or any inspection or complaint  
711 investigation since the last licensure inspection.

712 (f) Notwithstanding any other provision of law, a fine must  
713 be imposed for each class III and class IV violation, regardless  
714 of correction, if a facility was previously cited for one or  
715 more class III or class IV violations during the agency's last  
716 licensure inspection or any inspection or complaint  
717 investigation since the last licensure inspection, for the same  
718 regulatory violation. A fine imposed for class III or class IV  
719 violations must be doubled if a facility was previously cited  
720 for one or more class III or class IV violations during the  
721 agency's last two licensure inspections for the same regulatory  
722 violation.

723 (g) Regardless of the class of violation cited, instead of  
724 the fine amounts listed in paragraphs (a)-(d), the agency shall



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725 impose an administrative fine of \$500 if a facility is found not  
726 to be in compliance with the background screening requirements  
727 as provided in s. 408.809.

728 ~~(3) For purposes of this section, in determining if a~~  
729 ~~penalty is to be imposed and in fixing the amount of the fine,~~  
730 ~~the agency shall consider the following factors:~~

731 ~~(a) The gravity of the violation, including the probability~~  
732 ~~that death or serious physical or emotional harm to a resident~~  
733 ~~will result or has resulted, the severity of the action or~~  
734 ~~potential harm, and the extent to which the provisions of the~~  
735 ~~applicable laws or rules were violated.~~

736 ~~(b) Actions taken by the owner or administrator to correct~~  
737 ~~violations.~~

738 ~~(c) Any previous violations.~~

739 ~~(d) The financial benefit to the facility of committing or~~  
740 ~~continuing the violation.~~

741 ~~(e) The licensed capacity of the facility.~~

742 ~~(3)-(4)~~ (3) Each day of continuing violation after the date  
743 established by the agency fixed for correction termination of  
744 the violation, as ordered by the agency, constitutes an  
745 additional, separate, and distinct violation.

746 ~~(4)-(5)~~ (4) An Any action taken to correct a violation shall be  
747 documented in writing by the owner or administrator of the  
748 facility and verified through followup visits by agency  
749 personnel. The agency may impose a fine and, in the case of an  
750 owner-operated facility, revoke or deny a facility's license  
751 when a facility administrator fraudulently misrepresents action  
752 taken to correct a violation.

753 ~~(5)-(6)~~ (5) A Any facility whose owner fails to apply for a



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754 change-of-ownership license in accordance with part II of  
755 chapter 408 and operates the facility under the new ownership is  
756 subject to a fine of \$5,000.

757 ~~(6)~~(7) In addition to any administrative fines imposed, the  
758 agency may assess a survey fee, equal to the lesser of one half  
759 of the facility's biennial license and bed fee or \$500, to cover  
760 the cost of conducting initial complaint investigations that  
761 result in the finding of a violation that was the subject of the  
762 complaint or monitoring visits conducted under s. 429.28(3)(c)  
763 to verify the correction of the violations.

764 ~~(7)~~(8) During an inspection, the agency shall make a  
765 reasonable attempt to discuss each violation with the owner or  
766 administrator of the facility, prior to written notification.

767 ~~(8)~~(9) The agency shall develop and disseminate an annual  
768 list of all facilities sanctioned or fined for violations of  
769 state standards, the number and class of violations involved,  
770 the penalties imposed, and the current status of cases. The list  
771 shall be disseminated, at no charge, to the Department of  
772 Elderly Affairs, the Department of Health, the Department of  
773 Children and Family Services, the Agency for Persons with  
774 Disabilities, the area agencies on aging, the Florida Statewide  
775 Advocacy Council, and the state and local ombudsman councils.  
776 The Department of Children and Family Services shall disseminate  
777 the list to service providers under contract to the department  
778 who are responsible for referring persons to a facility for  
779 residency. The agency may charge a fee commensurate with the  
780 cost of printing and postage to other interested parties  
781 requesting a copy of this list. This information may be provided  
782 electronically or through the agency's Internet site.



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783 Section 9. Subsections (2) and (6) of section 429.28,  
784 Florida Statutes, are amended to read:

785 429.28 Resident bill of rights.—

786 (2) The administrator of a facility shall ensure that a  
787 written notice of the rights, obligations, and prohibitions set  
788 forth in this part is posted in a prominent place in each  
789 facility and read or explained to residents who cannot read. The  
790 ~~This~~ notice must ~~shall~~ include the name, address, and telephone  
791 numbers of the local ombudsman council and central abuse hotline  
792 and, if ~~when~~ applicable, Disability Rights Florida ~~the Advocacy~~  
793 ~~Center for Persons with Disabilities, Inc., and the Florida~~  
794 ~~local advocacy council~~, where complaints may be lodged. The  
795 notice must state that a complaint made to the Office of State  
796 Long-Term Care Ombudsman or a local long-term care ombudsman  
797 council, the names and identities of the residents involved in  
798 the complaint, and the identity of complainants are kept  
799 confidential pursuant to s. 400.0077 and that retaliatory action  
800 cannot be taken against a resident for presenting grievances or  
801 for exercising any other resident right. The facility must  
802 ensure a resident's access to a telephone to call the local  
803 ombudsman council, central abuse hotline, and Disability Rights  
804 Florida Advocacy Center for Persons with Disabilities, Inc., and  
805 ~~the Florida local advocacy council.~~

806 (6) A ~~Any~~ facility that ~~which~~ terminates the residency of  
807 an individual who participated in activities specified in  
808 subsection (5) must ~~shall~~ show good cause in a court of  
809 competent jurisdiction. If good cause is not shown, the agency  
810 shall impose a fine of \$2,500 in addition to any other penalty  
811 assessed against the facility.



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812 Section 10. Section 429.34, Florida Statutes, is amended to  
813 read:

814 429.34 Right of entry and inspection.—

815 (1) In addition to the requirements of s. 408.811, any duly  
816 designated officer or employee of the department, the Department  
817 of Children and Family Services, the Medicaid Fraud Control Unit  
818 of the Office of the Attorney General, the state or local fire  
819 marshal, or a member of the state or local long-term care  
820 ombudsman council ~~has~~ ~~shall~~ have the right to enter unannounced  
821 upon and into the premises of any facility licensed pursuant to  
822 this part in order to determine the state of compliance with the  
823 provisions of this part, part II of chapter 408, and applicable  
824 rules. Data collected by the state or local long-term care  
825 ombudsman councils or the state or local advocacy councils may  
826 be used by the agency in investigations involving violations of  
827 regulatory standards. A person specified in this section who  
828 knows or has reasonable cause to suspect that a vulnerable adult  
829 has been or is being abused, neglected, or exploited shall  
830 immediately report such knowledge or suspicion to the central  
831 abuse hotline pursuant to chapter 415.

832 (2) Each licensed assisted living facility must be  
833 inspected by the agency at least once every 24 months to  
834 determine compliance with this chapter and related rules. If an  
835 assisted living facility is cited for one or more class I  
836 violations or two or more class II violations arising from  
837 separate surveys within a 60-day period or due to unrelated  
838 circumstances during the same survey, the agency must conduct an  
839 additional licensure inspection within 6 months. In addition to  
840 any fines imposed on the facility under s. 429.19, the licensee



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841 must pay a fee for the cost of the additional inspection  
842 equivalent to the standard assisted living facility license and  
843 per-bed fees, without exception for beds designated for  
844 recipients of optional state supplementation. The agency shall  
845 adjust the fee in accordance with s. 408.805.

846 Section 11. Present subsections (1) through (11) of section  
847 429.52, Florida Statutes, are redesignated as subsections (2)  
848 through (12), respectively, a new subsection (1) is added to  
849 that section, and present subsection (9) of that section is  
850 amended, to read:

851 429.52 Staff training and educational programs; core  
852 educational requirement.—

853 (1) Effective October 1, 2013, each new assisted living  
854 facility employee who has not previously completed core training  
855 must attend a preservice orientation provided by the facility  
856 before interacting with residents. The preservice orientation  
857 must be at least 2 hours in duration and cover topics that help  
858 the employee provide responsible care and respond to the needs  
859 of residents of the facility. Upon completion, the employee and  
860 the administrator of the facility must sign an affidavit stating  
861 that the employee completed the required preservice orientation.  
862 The facility must keep the affidavit in the employee's work  
863 file.

864 (10) ~~(9)~~ The training required by this section ~~must shall~~ be  
865 conducted by persons registered with the department as having  
866 the requisite experience and credentials to conduct the  
867 training. A person seeking to register as a trainer must provide  
868 the department with proof of completion of the minimum core  
869 training education requirements, successful passage of the



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870 competency test established under this section, and proof of  
871 compliance with the continuing education requirement in  
872 subsection (5)(4).

873 Section 12. The Legislature finds that consistent  
874 regulation of assisted living facilities benefits residents and  
875 operators of such facilities. To determine whether surveys are  
876 consistent between surveys and surveyors, the Agency for Health  
877 Care Administration shall conduct a study of intersurveyor  
878 reliability for assisted living facilities. By November 1, 2013,  
879 the agency shall report to the Governor, the President of the  
880 Senate, and the Speaker of the House of Representatives its  
881 findings and make any recommendations to improve intersurveyor  
882 reliability.

883 Section 13. The Legislature finds that consumers need  
884 additional information on the quality of care and service in  
885 assisted living facilities in order to select the best facility  
886 for themselves or their loved ones. Therefore, the Agency for  
887 Health Care Administration shall:

888 (1) Propose a rating system for assisted living facilities.  
889 The proposal must include, but is not limited to, the data  
890 elements to be used, the method of collecting the data, the  
891 method of determining the rating, an estimate of the initial and  
892 ongoing costs of a rating system to both the agency and assisted  
893 living facilities, and a timetable for the implementation of the  
894 rating system for assisted living facilities. The agency shall  
895 submit its proposal to the Governor, the President of the  
896 Senate, and the Speaker of the House of Representatives by  
897 November 1, 2013.

898 (2) By January 1, 2014, create a content that is easily



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899 accessible through the front page of the agency's website. At a  
900 minimum, the content must include:

901 (a) Information on each licensed assisted living facility,  
902 including, but not limited to:

- 903 1. The name and address of the facility.  
904 2. The number and type of licensed beds in the facility.  
905 3. The types of licenses held by the facility.  
906 4. The facility's license expiration date and status.  
907 5. Other relevant information that the agency currently  
908 collects.

909 (b) A list of the facility's cited violations with a  
910 summary of each violation which is presented in a manner that is  
911 understandable by the general public. If a facility has  
912 challenged a violation under chapter 120, that violation may not  
913 be published until imposed by final order.

914 (c) Links to inspection reports that the agency has on  
915 file.

916 (d) A monitored comment page, maintained by the agency,  
917 which allows members of the public to anonymously comment on  
918 assisted living facilities that are licensed to operate in the  
919 state. This comment page must, at a minimum, allow members of  
920 the public to post comments on their experiences with, or  
921 observations of, an assisted living facility and to review other  
922 people's comments. Comments posted to the agency's comment page  
923 may not contain profanity and are intended to provide meaningful  
924 feedback about the assisted living facility. The agency shall  
925 provide for a webpage moderator to review comments for profane  
926 content before the comments are posted to the page. An employee,  
927 owner, or controlling interest in an assisted living facility is





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928 prohibited from posting comments on the page.

929 Section 14. This act shall take effect July 1, 2013.