

By the Committee on Children, Families, and Elder Affairs

586-01561-13

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1                                   A bill to be entitled  
2           An act relating to assisted living facilities;  
3           amending s. 394.4574, F.S.; providing that Medicaid  
4           prepaid behavioral health plans are responsible for  
5           enrolled mental health residents; providing that  
6           managing entities under contract with the Department  
7           of Children and Families are responsible for mental  
8           health residents who are not enrolled with a Medicaid  
9           prepaid behavioral health plan; deleting a provision  
10          to conform to changes made by the act; requiring the  
11          community living support plan to be updated when there  
12          is a significant change to the mental health  
13          resident's behavioral health; requiring the case  
14          manager assigned to a mental health resident of an  
15          assisted living facility that holds a limited mental  
16          health license to keep a record of the date and time  
17          of face-to-face interactions with the resident and to  
18          make the record available to the responsible entity  
19          for inspection; requiring that the record be  
20          maintained for a specified time; requiring the  
21          responsible entity to ensure that there is adequate  
22          and consistent monitoring and enforcement of community  
23          living support plans and cooperative agreements and  
24          that concerns are reported to the appropriate  
25          regulatory oversight organization under certain  
26          circumstances; amending s. 400.0074, F.S.; providing  
27          that an administrative assessment conducted by a local  
28          council be comprehensive in nature and focus on  
29          factors affecting the rights, health, safety, and

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30 welfare of the residents of a nursing home; requiring  
31 a local council to conduct an exit consultation with  
32 the facility administrator or administrator designee  
33 to discuss issues and concerns and make  
34 recommendations for improvement; amending s. 400.0078,  
35 F.S.; requiring that residents of long-term care  
36 facilities be informed about the confidentiality of  
37 the subject matter and identity of the complainant of  
38 a complaint received by the State Long-Term Care  
39 Ombudsman Program; amending s. 429.07, F.S.; providing  
40 that an extended congregate care license is issued to  
41 certain facilities that have been licensed as assisted  
42 living facilities under certain circumstances;  
43 providing the purpose of an extended congregate care  
44 license; providing that the initial extended  
45 congregate care license of an assisted living facility  
46 is provisional under certain circumstances; requiring  
47 the licensee to notify the Agency for Health Care  
48 Administration whenever it accepts a resident who  
49 qualifies for extended congregate care services;  
50 requiring the agency to inspect the facility for  
51 compliance with the requirements of an extended  
52 congregate care license; authorizing the agency to  
53 waive one of the required yearly monitoring visits  
54 under certain circumstances; authorizing the agency to  
55 deny or revoke a facility's extended congregate care  
56 license for certain reasons or on certain grounds;  
57 requiring a registered nurse representing the agency  
58 to visit the facility at least annually, rather than

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59 twice a year, to monitor residents who are receiving  
60 limited nursing services; providing that the agency's  
61 monitoring visits may be in conjunction with other  
62 agency inspections; authorizing the agency to waive  
63 one of the required yearly monitoring visits for  
64 certain facilities; amending s. 429.075, F.S.;

65 requiring an assisted living facility that serves one  
66 or more mental health residents to obtain a limited  
67 mental health license; amending s. 429.14, F.S.;

68 authorizing the agency to deny, revoke, or suspend a  
69 license of an assisted living facility for a negligent  
70 act of any facility staff which seriously affects the  
71 health, safety, or welfare of a resident; requiring  
72 the agency to deny or revoke the license of an  
73 assisted living facility under certain circumstances;

74 requiring the agency to impose an immediate moratorium  
75 on the license of an assisted living facility under  
76 certain circumstances; deleting a provision requiring  
77 the agency to provide a list of facilities with  
78 denied, suspended, or revoked licenses to the  
79 Department of Business and Professional Regulation;

80 amending s. 429.178, F.S.; conforming cross-  
81 references; amending s. 429.19, F.S.; revising the  
82 amounts and uses of administrative fines; requiring  
83 the agency to levy a fine for violations that are  
84 corrected before an inspection if noncompliance  
85 occurred within a specified period of time; deleting  
86 factors that the agency is required to consider to  
87 determine penalties and fines; amending s. 429.28,

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88 F.S.; requiring residents of facilities to be informed  
89 about the confidentiality of the subject matter and  
90 identity of the resident and complainant of a  
91 complaint made to the State Long-Term Care Ombudsman  
92 Program; providing that a facility that terminates an  
93 individual's residency is fined if good cause is not  
94 shown in court; amending s. 429.34, F.S.; requiring  
95 certain persons to report elder abuse in assisted  
96 living facilities; requiring the agency to regularly  
97 inspect every licensed assisted living facility;  
98 requiring the agency to conduct more frequent  
99 inspections under certain circumstances; requiring the  
100 licensee to pay a fee for the cost of additional  
101 inspections; requiring the agency to adjust the fee;  
102 amending s. 429.52, F.S.; requiring each newly hired  
103 employee of an assisted living facility to attend a  
104 preservice orientation provided by the assisted living  
105 facility; requiring the employee and administrator to  
106 sign an affidavit upon completion of the preservice  
107 orientation; requiring the assisted living facility to  
108 maintain the signed affidavit in each employee's work  
109 file; conforming a cross-reference; requiring the  
110 Agency for Health Care Administration to study the  
111 reliability of facility surveys and submit to the  
112 Governor and the Legislature its findings and  
113 recommendations; requiring the agency to propose a  
114 rating system of assisted living facilities for  
115 consumers and create content for the agency's website  
116 that makes available to consumers information

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117 regarding assisted living facilities; providing  
118 criteria for the content; providing an effective date.

119

120 Be It Enacted by the Legislature of the State of Florida:

121

122 Section 1. Section 394.4574, Florida Statutes, is amended  
123 to read:

124 394.4574 ~~Department~~ Responsibilities for coordination of  
125 services for a mental health resident who resides in an assisted  
126 living facility that holds a limited mental health license.—

127 (1) As used in this section, the term "mental health  
128 resident" ~~"mental health resident,"~~ for purposes of this  
129 ~~section,~~ means an individual who receives social security  
130 disability income due to a mental disorder as determined by the  
131 Social Security Administration or receives supplemental security  
132 income due to a mental disorder as determined by the Social  
133 Security Administration and receives optional state  
134 supplementation.

135 (2) Medicaid prepaid behavioral health plans are  
136 responsible for enrolled mental health residents, and managing  
137 entities under contract with the department are responsible for  
138 mental health residents who are not enrolled with a Medicaid  
139 prepaid behavioral health plan. Each responsible entity shall  
140 ~~The department must~~ ensure that:

141 (a) A mental health resident has been assessed by a  
142 psychiatrist, clinical psychologist, clinical social worker, or  
143 psychiatric nurse, or an individual who is supervised by one of  
144 these professionals, and determined to be appropriate to reside  
145 in an assisted living facility. The documentation must be

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146 provided to the administrator of the facility within 30 days  
147 after the mental health resident has been admitted to the  
148 facility. An evaluation completed upon discharge from a state  
149 mental hospital meets the requirements of this subsection  
150 related to appropriateness for placement as a mental health  
151 resident if it was completed within 90 days before ~~prior to~~  
152 admission to the facility.

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

166 (c) The community living support plan, as defined in s.  
167 429.02, has been prepared by a mental health resident and a  
168 mental health case manager of that resident in consultation with  
169 the administrator of the facility or the administrator's  
170 designee. The plan must be provided to the administrator of the  
171 assisted living facility with a limited mental health license in  
172 which the mental health resident lives. The support plan and the  
173 agreement may be in one document.

174 (d) The assisted living facility with a limited mental

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175 health license is provided with documentation that the  
176 individual meets the definition of a mental health resident.

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

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

195 (g) Concerns are reported to the appropriate regulatory  
196 oversight organization if a regulated provider fails to deliver  
197 appropriate services or otherwise acts in a manner that has the  
198 potential to result in harm to the resident.

199 (3) The Secretary of Children and Family Services, in  
200 consultation with the Agency for Health Care Administration,  
201 shall ~~annually~~ require each district administrator to develop,  
202 with community input, a detailed annual plan that demonstrates  
203 ~~detailed plans that demonstrate~~ how the district will ensure the

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204 provision of state-funded mental health and substance abuse  
205 treatment services to residents of assisted living facilities  
206 that hold a limited mental health license. These plans must be  
207 consistent with the substance abuse and mental health district  
208 plan developed pursuant to s. 394.75 and must address case  
209 management services; access to consumer-operated drop-in  
210 centers; access to services during evenings, weekends, and  
211 holidays; supervision of the clinical needs of the residents;  
212 and access to emergency psychiatric care.

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

216 400.0074 Local ombudsman council onsite administrative  
217 assessments.—

218 (1) In addition to any specific investigation conducted  
219 pursuant to a complaint, the local council shall conduct, at  
220 least annually, an onsite administrative assessment of each  
221 nursing home, assisted living facility, and adult family-care  
222 home within its jurisdiction. This administrative assessment  
223 must be comprehensive in nature and must ~~shall~~ focus on factors  
224 affecting the rights, health, safety, and welfare of the  
225 residents. Each local council is encouraged to conduct a similar  
226 onsite administrative assessment of each additional long-term  
227 care facility within its jurisdiction.

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

230 (h) The local council shall conduct an exit consultation  
231 with the facility administrator or administrator designee to  
232 discuss issues and concerns and make recommendations for



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233 improvement, if any.

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

236 400.0078 Citizen access to State Long-Term Care Ombudsman  
237 Program services.—

238 (2) ~~Every resident or representative of a resident shall~~  
239 ~~receive,~~ Upon admission to a long-term care facility, each  
240 resident or representative of a resident must receive  
241 information regarding the purpose of the State Long-Term Care  
242 Ombudsman Program, the statewide toll-free telephone number for  
243 receiving complaints, the confidentiality of the subject matter  
244 of a complaint and the complainant's name and identity, and  
245 other relevant information regarding how to contact the program.  
246 Residents or their representatives must be furnished additional  
247 copies of this information upon request.

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

250 429.07 License required; fee.—

251 (3) In addition to the requirements of s. 408.806, each  
252 license granted by the agency must state the type of care for  
253 which the license is granted. Licenses shall be issued for one  
254 or more of the following categories of care: standard, extended  
255 congregate care, limited nursing services, or limited mental  
256 health.

257 (b) An extended congregate care license shall be issued to  
258 facilities that have been licensed as assisted living facilities  
259 for 2 or more years and that provide ~~providing,~~ directly or  
260 through contract, services beyond those authorized in paragraph  
261 (a), including services performed by persons licensed under part

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262 I of chapter 464 and supportive services, as defined by rule, to  
263 persons who would otherwise be disqualified from continued  
264 residence in a facility licensed under this part. The primary  
265 purpose of extended congregate care services is to allow  
266 residents, as they become more impaired, the option of remaining  
267 in a familiar setting from which they would otherwise be  
268 disqualified for continued residency. A facility licensed to  
269 provide extended congregate care services may also admit an  
270 individual who exceeds the admission criteria for a facility  
271 with a standard license, if the individual is determined  
272 appropriate for admission to the extended congregate care  
273 facility.

274 1. In order for extended congregate care services to be  
275 provided, the agency must first determine that all requirements  
276 established in law and rule are met and must specifically  
277 designate, on the facility's license, that such services may be  
278 provided and whether the designation applies to all or part of  
279 the facility. Such designation may be made at the time of  
280 initial licensure or relicensure, or upon request in writing by  
281 a licensee under this part and part II of chapter 408. The  
282 notification of approval or the denial of the request shall be  
283 made in accordance with part II of chapter 408. Existing  
284 facilities qualifying to provide extended congregate care  
285 services must have maintained a standard license and may not  
286 have been subject to administrative sanctions during the  
287 previous 2 years, or since initial licensure if the facility has  
288 been licensed for less than 2 years, for any of the following  
289 reasons:

290 a. A class I or class II violation;

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291 b. Three or more repeat or recurring class III violations  
292 of identical or similar resident care standards from which a  
293 pattern of noncompliance is found by the agency;

294 c. Three or more class III violations that were not  
295 corrected in accordance with the corrective action plan approved  
296 by the agency;

297 d. Violation of resident care standards which results in  
298 requiring the facility to employ the services of a consultant  
299 pharmacist or consultant dietitian;

300 e. Denial, suspension, or revocation of a license for  
301 another facility licensed under this part in which the applicant  
302 for an extended congregate care license has at least 25 percent  
303 ownership interest; or

304 f. Imposition of a moratorium pursuant to this part or part  
305 II of chapter 408 or initiation of injunctive proceedings.

306 2. If an assisted living facility has been licensed for  
307 less than 2 years, the initial extended congregate care license  
308 must be provisional and may not exceed 6 months. Within the  
309 first 3 months after the provisional license is issued, the  
310 licensee shall notify the agency when it has admitted an  
311 extended congregate care resident, after which an unannounced  
312 inspection shall be made to determine compliance with  
313 requirements of an extended congregate care license. If the  
314 licensee demonstrates compliance with all of the requirements of  
315 an extended congregate care license during the inspection, the  
316 licensee shall be issued an extended congregate care license. In  
317 addition to sanctions authorized under this part, if violations  
318 are found during the inspection and the licensee fails to  
319 demonstrate compliance with all assisted living requirements

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320 during a followup inspection, the licensee shall immediately  
321 suspend extended congregate care services, and the provisional  
322 extended congregate care license expires.

323 3.2. A facility that is licensed to provide extended  
324 congregate care services shall maintain a written progress  
325 report on each person who receives services which describes the  
326 type, amount, duration, scope, and outcome of services that are  
327 rendered and the general status of the resident's health. A  
328 registered nurse, or appropriate designee, representing the  
329 agency shall visit the facility at least twice a year ~~quarterly~~  
330 to monitor residents who are receiving extended congregate care  
331 services and to determine if the facility is in compliance with  
332 this part, part II of chapter 408, and relevant rules. One of  
333 the visits may be in conjunction with the regular survey. The  
334 monitoring visits may be provided through contractual  
335 arrangements with appropriate community agencies. A registered  
336 nurse shall serve as part of the team that inspects the  
337 facility. The agency may waive one of the required yearly  
338 monitoring visits for a facility ~~that has been licensed for at~~  
339 ~~least 24 months to provide extended congregate care services,~~  
340 ~~if, during the inspection, the registered nurse determines that~~  
341 ~~extended congregate care services are being provided~~  
342 ~~appropriately, and if the facility has held an extended~~  
343 congregate care license during the last 24 months, has had no  
344 class I or class II violations, has had and no uncorrected class  
345 III violations, and has had no confirmed ombudsman council  
346 complaints that resulted in a citation for licensure. ~~The agency~~  
347 ~~must first consult with the long-term care ombudsman council for~~  
348 ~~the area in which the facility is located to determine if any~~

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349 ~~complaints have been made and substantiated about the quality of~~  
350 ~~services or care. The agency may not waive one of the required~~  
351 ~~yearly monitoring visits if complaints have been made and~~  
352 ~~substantiated.~~

353 4.3. A facility that is licensed to provide extended  
354 congregate care services must:

355 a. Demonstrate the capability to meet unanticipated  
356 resident service needs.

357 b. Offer a physical environment that promotes a homelike  
358 setting, provides for resident privacy, promotes resident  
359 independence, and allows sufficient congregate space as defined  
360 by rule.

361 c. Have sufficient staff available, taking into account the  
362 physical plant and firesafety features of the building, to  
363 assist with the evacuation of residents in an emergency.

364 d. Adopt and follow policies and procedures that maximize  
365 resident independence, dignity, choice, and decisionmaking to  
366 permit residents to age in place, so that moves due to changes  
367 in functional status are minimized or avoided.

368 e. Allow residents or, if applicable, a resident's  
369 representative, designee, surrogate, guardian, or attorney in  
370 fact to make a variety of personal choices, participate in  
371 developing service plans, and share responsibility in  
372 decisionmaking.

373 f. Implement the concept of managed risk.

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

376 h. In addition to the training mandated in s. 429.52,  
377 provide specialized training as defined by rule for facility

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378 staff.

379 5.4. A facility that is licensed to provide extended  
380 congregate care services is exempt from the criteria for  
381 continued residency set forth in rules adopted under s. 429.41.  
382 A licensed facility must adopt its own requirements within  
383 guidelines for continued residency set forth by rule. However,  
384 the facility may not serve residents who require 24-hour nursing  
385 supervision. A licensed facility that provides extended  
386 congregate care services must also provide each resident with a  
387 written copy of facility policies governing admission and  
388 retention.

389 ~~5. The primary purpose of extended congregate care services~~  
390 ~~is to allow residents, as they become more impaired, the option~~  
391 ~~of remaining in a familiar setting from which they would~~  
392 ~~otherwise be disqualified for continued residency. A facility~~  
393 ~~licensed to provide extended congregate care services may also~~  
394 ~~admit an individual who exceeds the admission criteria for a~~  
395 ~~facility with a standard license, if the individual is~~  
396 ~~determined appropriate for admission to the extended congregate~~  
397 ~~care facility.~~

398 6. Before the admission of an individual to a facility  
399 licensed to provide extended congregate care services, the  
400 individual must undergo a medical examination as provided in s.  
401 429.26(4) and the facility must develop a preliminary service  
402 plan for the individual.

403 7. If ~~When~~ a facility can no longer provide or arrange for  
404 services in accordance with the resident's service plan and  
405 needs and the facility's policy, the facility must ~~shall~~ make  
406 arrangements for relocating the person in accordance with s.

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407 429.28(1)(k).

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

410  
411 The agency may deny or revoke a facility's extended congregate  
412 care license for not meeting the standards of an extended  
413 congregate care license or for any of the grounds listed in this  
414 subsection.

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

418 1. In order for limited nursing services to be provided in  
419 a facility licensed under this part, the agency must first  
420 determine that all requirements established in law and rule are  
421 met and must specifically designate, on the facility's license,  
422 that such services may be provided. Such designation may be made  
423 at the time of initial licensure or licensure renewal  
424 ~~relicensure~~, or upon request in writing by a licensee under this  
425 part and part II of chapter 408. Notification of approval or  
426 denial of such request shall be made in accordance with part II  
427 of chapter 408. An existing facility that qualifies ~~facilities~~  
428 ~~qualifying~~ to provide limited nursing services must ~~shall~~ have  
429 maintained a standard license and may not have been subject to  
430 administrative sanctions that affect the health, safety, and  
431 welfare of residents for the previous 2 years or since initial  
432 licensure if the facility has been licensed for less than 2  
433 years.

434 2. A facility ~~Facilities~~ that is ~~are~~ licensed to provide  
435 limited nursing services shall maintain a written progress

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436 report on each person who receives such nursing services. The,  
437 ~~which~~ report must describe ~~describes~~ the type, amount, duration,  
438 scope, and outcome of services that are rendered and the general  
439 status of the resident's health. A registered nurse representing  
440 the agency shall visit the facility ~~such facilities~~ at least  
441 annually ~~twice a year~~ to monitor residents who are receiving  
442 limited nursing services and to determine if the facility is in  
443 compliance with applicable provisions of this part, part II of  
444 chapter 408, and related rules. The monitoring visits may be  
445 provided through contractual arrangements with appropriate  
446 community agencies. A registered nurse shall also serve as part  
447 of the team that inspects such facility. Visits may be in  
448 conjunction with other agency inspections. The agency may waive  
449 one of the required yearly monitoring visits for a facility that  
450 has:

451 a. A limited nursing services license for at least 24  
452 months;

453 b. No class I or class II violations and no uncorrected  
454 class III violations; and

455 c. No confirmed ombudsman council complaints that resulted  
456 in a citation for licensure.

457 3. A person who receives limited nursing services under  
458 this part must meet the admission criteria established by the  
459 agency for assisted living facilities. When a resident no longer  
460 meets the admission criteria for a facility licensed under this  
461 part, arrangements for relocating the person shall be made in  
462 accordance with s. 429.28(1)(k), unless the facility is licensed  
463 to provide extended congregate care services.

464 Section 5. Section 429.075, Florida Statutes, is amended to



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465 read:

466 429.075 Limited mental health license.—An assisted living  
467 facility that serves one ~~three~~ or more mental health residents  
468 must obtain a limited mental health license.

469 (1) To obtain a limited mental health license, a facility  
470 must hold a standard license as an assisted living facility,  
471 must not have any current uncorrected deficiencies or  
472 violations, and must ensure that, within 6 months after  
473 receiving a limited mental health license, the facility  
474 administrator and the staff of the facility who are in direct  
475 contact with mental health residents must complete training of  
476 no less than 6 hours related to their duties. Such designation  
477 may be made at the time of initial licensure or relicensure or  
478 upon request in writing by a licensee under this part and part  
479 II of chapter 408. Notification of approval or denial of such  
480 request shall be made in accordance with this part, part II of  
481 chapter 408, and applicable rules. This training must ~~will~~ be  
482 provided by or approved by the Department of Children and Family  
483 Services.

484 (2) A facility that is ~~Facilities~~ licensed to provide  
485 services to mental health residents must ~~shall~~ provide  
486 appropriate supervision and staffing to provide for the health,  
487 safety, and welfare of such residents.

488 (3) A facility that has a limited mental health license  
489 must:

490 (a) Have a copy of each mental health resident's community  
491 living support plan and the cooperative agreement with the  
492 mental health care services provider. The support plan and the  
493 agreement may be combined.

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

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

503 (d) Assist the mental health resident in carrying out the  
504 activities identified in the individual's community living  
505 support plan.

506 (4) A facility that has ~~with~~ a limited mental health  
507 license may enter into a cooperative agreement with a private  
508 mental health provider. For purposes of the limited mental  
509 health license, the private mental health provider may act as  
510 the case manager.

511 Section 6. Section 429.14, Florida Statutes, is amended to  
512 read:

513 429.14 Administrative penalties.—

514 (1) In addition to the requirements of part II of chapter  
515 408, the agency may deny, revoke, and suspend any license issued  
516 under this part and impose an administrative fine in the manner  
517 provided in chapter 120 against a licensee for a violation of  
518 any provision of this part, part II of chapter 408, or  
519 applicable rules, or for any of the following actions by a  
520 licensee, for the actions of any person subject to level 2  
521 background screening under s. 408.809, or for the actions of any  
522 facility staff ~~employee~~:

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523 (a) A ~~An intentional or~~ negligent act seriously affecting  
524 the health, safety, or welfare of a resident of the facility.

525 (b) A ~~The~~ determination by the agency that the owner lacks  
526 the financial ability to provide continuing adequate care to  
527 residents.

528 (c) Misappropriation or conversion of the property of a  
529 resident of the facility.

530 (d) Failure to follow the criteria and procedures provided  
531 under part I of chapter 394 relating to the transportation,  
532 voluntary admission, and involuntary examination of a facility  
533 resident.

534 (e) A citation of any of the following deficiencies as  
535 specified in s. 429.19:

536 1. One or more cited class I deficiencies.

537 2. Three or more cited class II deficiencies.

538 3. Five or more cited class III deficiencies that have been  
539 cited on a single survey and have not been corrected within the  
540 times specified.

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

543 (g) Violation of a moratorium.

544 (h) Failure of the license applicant, the licensee during  
545 relicensure, or a licensee that holds a provisional license to  
546 meet the minimum license requirements of this part, or related  
547 rules, at the time of license application or renewal.

548 (i) An intentional or negligent life-threatening act in  
549 violation of the uniform firesafety standards for assisted  
550 living facilities or other firesafety standards which ~~that~~  
551 threatens the health, safety, or welfare of a resident of a

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552 facility, as communicated to the agency by the local authority  
553 having jurisdiction or the State Fire Marshal.

554 (j) Knowingly operating any unlicensed facility or  
555 providing without a license any service that must be licensed  
556 under this chapter or chapter 400.

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

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

564 (3) The agency may deny or revoke a license of an ~~to any~~  
565 applicant or controlling interest as defined in part II of  
566 chapter 408 which has or had a 25-percent or greater financial  
567 or ownership interest in any other facility that is licensed  
568 under this part, or in any entity licensed by this state or  
569 another state to provide health or residential care, if that  
570 ~~which~~ facility or entity during the 5 years prior to the  
571 application for a license closed due to financial inability to  
572 operate; had a receiver appointed or a license denied,  
573 suspended, or revoked; was subject to a moratorium; or had an  
574 injunctive proceeding initiated against it.

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

577 (a) A resident's health, safety, or welfare has been  
578 seriously affected by an intentional act of facility staff;

579 (b) There are two moratoria issued pursuant to this part,  
580 or part II of chapter 408, which are imposed by final order

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581 within a 2-year period;

582 (c) The facility is conditionally licensed for 180 or more  
583 consecutive days;

584 (d) The facility is cited for two or more class I  
585 violations arising from unrelated circumstances during the same  
586 survey or investigation; or

587 (e) The facility is cited for two or more class I  
588 violations arising from separate surveys or investigations  
589 within a 2-year period ~~that has two or more class I violations~~  
590 ~~that are similar or identical to violations identified by the~~  
591 ~~agency during a survey, inspection, monitoring visit, or~~  
592 ~~complaint investigation occurring within the previous 2 years.~~

593 (5) An action taken by the agency to suspend, deny, or  
594 revoke a facility's license under this part or part II of  
595 chapter 408, in which the agency claims that the facility owner  
596 or an employee of the facility has threatened the health,  
597 safety, or welfare of a resident of the facility must be heard  
598 by the Division of Administrative Hearings of the Department of  
599 Management Services within 120 days after receipt of the  
600 facility's request for a hearing, unless that time limitation is  
601 waived by both parties. The administrative law judge shall ~~must~~  
602 render a decision within 30 days after receipt of a proposed  
603 recommended order.

604 (6) The agency shall impose an immediate moratorium, as  
605 provided under s. 408.814, on an assisted living facility that  
606 fails to provide the agency access to the facility or prohibits  
607 the agency from conducting a regulatory inspection. The licensee  
608 may not restrict agency staff in accessing and copying records  
609 or in conducting confidential interviews with facility staff or

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610 any individual who receives services from the facility ~~provide~~  
611 ~~to the Division of Hotels and Restaurants of the Department of~~  
612 ~~Business and Professional Regulation, on a monthly basis, a list~~  
613 ~~of those assisted living facilities that have had their licenses~~  
614 ~~denied, suspended, or revoked or that are involved in an~~  
615 ~~appellate proceeding pursuant to s. 120.60 related to the~~  
616 ~~denial, suspension, or revocation of a license.~~

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

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

622 429.178 Special care for persons with Alzheimer's disease  
623 or other related disorders.-

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

632 (b) A direct caregiver who is employed by a facility that  
633 provides special care for residents with Alzheimer's disease or  
634 other related disorders, and who provides direct care to such  
635 residents, must complete the required initial training and 4  
636 additional hours of training developed or approved by the  
637 department. The training must ~~shall~~ be completed within 9 months  
638 after beginning employment and satisfy ~~shall satisfy~~ the core

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639 training requirements of s. 429.52(3)(g) ~~s. 429.52(2)(g)~~.

640 Section 8. Section 429.19, Florida Statutes, is amended to  
641 read:

642 429.19 Violations; imposition of administrative fines;  
643 grounds.—

644 (1) In addition to the requirements of part II of chapter  
645 408, the agency shall impose an administrative fine in the  
646 manner provided in chapter 120 for the violation of any  
647 provision of this part, part II of chapter 408, and applicable  
648 rules by an assisted living facility, for the actions of any  
649 person subject to level 2 background screening under s. 408.809,  
650 for the actions of any facility employee, or for an intentional  
651 or negligent act seriously affecting the health, safety, or  
652 welfare of a resident of the facility.

653 (2) Each violation of this part and adopted rules must  
654 ~~shall~~ be classified according to the nature of the violation and  
655 the gravity of its probable effect on facility residents. The  
656 agency shall indicate the classification on the written notice  
657 of the violation as follows:

658 (a) Class "I" violations are defined in s. 408.813. The  
659 agency shall impose an administrative fine of \$7,500 for each a  
660 cited class I violation in a facility that is licensed for fewer  
661 than 100 beds at the time of the violation in an amount not less  
662 than \$5,000 and not exceeding \$10,000 for each violation. The  
663 agency shall impose an administrative fine of \$11,250 for each  
664 cited class I violation in a facility that is licensed for 100  
665 or more beds at the time of the violation. If the noncompliance  
666 occurs within the prior 12 months, the fine must be levied for  
667 violations that are corrected before an inspection.

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668 (b) Class "II" violations are defined in s. 408.813. The  
669 agency shall impose an administrative fine of \$3,000 for each a  
670 cited class II violation in a facility that is licensed for  
671 fewer than 100 beds at the time of the violation in an amount  
672 not less than \$1,000 and not exceeding \$5,000 for each  
673 violation. The agency shall impose an administrative fine of  
674 \$4,500 for each cited class II violation in a facility that is  
675 licensed for 100 or more beds at the time of the violation.

676 (c) Class "III" violations are defined in s. 408.813. The  
677 agency shall impose an administrative fine of \$750 for each a  
678 cited class III violation in a facility that is licensed for  
679 fewer than 100 beds at the time of the violation in an amount  
680 not less than \$500 and not exceeding \$1,000 for each violation.  
681 The agency shall impose an administrative fine of \$1,125 for  
682 each cited class III violation in a facility that is licensed  
683 for 100 or more beds at the time of the violation.

684 (d) Class "IV" violations are defined in s. 408.813. The  
685 agency shall impose an administrative fine of \$150 for each a  
686 cited class IV violation in a facility that is licensed for  
687 fewer than 100 beds at the time of the violation in an amount  
688 not less than \$100 and not exceeding \$200 for each violation.  
689 The agency shall impose an administrative fine of \$225 for each  
690 cited class IV violation in a facility that is licensed for 100  
691 or more beds at the time of the violation.

692 (e) Any fine imposed for class I and class II violations  
693 must be doubled if a facility was previously cited for one or  
694 more class I or class II violations during the agency's last  
695 licensure inspection or any inspection or complaint  
696 investigation since the last licensure inspection.



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697       (f) Notwithstanding any other provision of law, a fine must  
698 be imposed for each class III and class IV violation, regardless  
699 of correction, if a facility was previously cited for one or  
700 more class III or class IV violations during the agency's last  
701 licensure inspection or any inspection or complaint  
702 investigation since the last licensure inspection, for the same  
703 regulatory violation. A fine imposed for class III or class IV  
704 violations must be doubled if a facility was previously cited  
705 for one or more class III or class IV violations during the  
706 agency's last two licensure inspections for the same regulatory  
707 violation.

708       (g) In addition to the fines listed in paragraphs (a)-(d),  
709 the agency shall impose an administrative fine of \$500 if a  
710 facility is found not to be in compliance with the background  
711 screening requirements as provided in s. 408.809.

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

715       ~~(a) The gravity of the violation, including the probability~~  
716 ~~that death or serious physical or emotional harm to a resident~~  
717 ~~will result or has resulted, the severity of the action or~~  
718 ~~potential harm, and the extent to which the provisions of the~~  
719 ~~applicable laws or rules were violated.~~

720       ~~(b) Actions taken by the owner or administrator to correct~~  
721 ~~violations.~~

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

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

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

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726        (3)~~(4)~~ Each day of continuing violation after the date  
727        established by the agency ~~fixed for correction termination~~ of  
728        the violation, ~~as ordered by the agency,~~ constitutes an  
729        additional, separate, and distinct violation.

730        (4)~~(5)~~ An Any action taken to correct a violation shall be  
731        documented in writing by the owner or administrator of the  
732        facility and verified through followup visits by agency  
733        personnel. The agency may impose a fine and, in the case of an  
734        owner-operated facility, revoke or deny a facility's license  
735        when a facility administrator fraudulently misrepresents action  
736        taken to correct a violation.

737        (5)~~(6)~~ A Any facility whose owner fails to apply for a  
738        change-of-ownership license in accordance with part II of  
739        chapter 408 and operates the facility under the new ownership is  
740        subject to a fine of \$5,000.

741        (6)~~(7)~~ In addition to any administrative fines imposed, the  
742        agency may assess a survey fee, equal to the lesser of one half  
743        of the facility's biennial license and bed fee or \$500, to cover  
744        the cost of conducting initial complaint investigations that  
745        result in the finding of a violation that was the subject of the  
746        complaint or monitoring visits conducted under s. 429.28(3)(c)  
747        to verify the correction of the violations.

748        (7)~~(8)~~ During an inspection, the agency shall make a  
749        reasonable attempt to discuss each violation with the owner or  
750        administrator of the facility, prior to written notification.

751        (8)~~(9)~~ The agency shall develop and disseminate an annual  
752        list of all facilities sanctioned or fined for violations of  
753        state standards, the number and class of violations involved,  
754        the penalties imposed, and the current status of cases. The list

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755 shall be disseminated, at no charge, to the Department of  
756 Elderly Affairs, the Department of Health, the Department of  
757 Children and Family Services, the Agency for Persons with  
758 Disabilities, the area agencies on aging, the Florida Statewide  
759 Advocacy Council, and the state and local ombudsman councils.  
760 The Department of Children and Family Services shall disseminate  
761 the list to service providers under contract to the department  
762 who are responsible for referring persons to a facility for  
763 residency. The agency may charge a fee commensurate with the  
764 cost of printing and postage to other interested parties  
765 requesting a copy of this list. This information may be provided  
766 electronically or through the agency's Internet site.

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

769 429.28 Resident bill of rights.-

770 (2) The administrator of a facility shall ensure that a  
771 written notice of the rights, obligations, and prohibitions set  
772 forth in this part is posted in a prominent place in each  
773 facility and read or explained to residents who cannot read. The  
774 ~~This~~ notice must ~~shall~~ include the name, address, and telephone  
775 numbers of the local ombudsman council and central abuse hotline  
776 and, if ~~when~~ applicable, the Advocacy Center for Persons with  
777 Disabilities, Inc., and the Florida local advocacy council,  
778 where complaints may be lodged. The notice must state that the  
779 subject matter of a complaint made to the Office of State Long-  
780 Term Care Ombudsman or a local long-term care ombudsman council  
781 and the names and identities of the residents involved in the  
782 complaint and the complainants are kept confidential pursuant to  
783 s. 400.0077. The facility must ensure a resident's access to a

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784 telephone to call the local ombudsman council, central abuse  
785 hotline, Advocacy Center for Persons with Disabilities, Inc.,  
786 and the Florida local advocacy council.

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

793 Section 10. Section 429.34, Florida Statutes, is amended to  
794 read:

795 429.34 Right of entry and inspection.—

796 (1) In addition to the requirements of s. 408.811, any duly  
797 designated officer or employee of the department, the Department  
798 of Children and Family Services, the Medicaid Fraud Control Unit  
799 of the Office of the Attorney General, the state or local fire  
800 marshal, or a member of the state or local long-term care  
801 ombudsman council has ~~shall have~~ the right to enter unannounced  
802 upon and into the premises of any facility licensed pursuant to  
803 this part in order to determine the state of compliance with the  
804 provisions of this part, part II of chapter 408, and applicable  
805 rules. Data collected by the state or local long-term care  
806 ombudsman councils or the state or local advocacy councils may  
807 be used by the agency in investigations involving violations of  
808 regulatory standards. A person specified in this section who  
809 knows or has reasonable cause to suspect that a vulnerable adult  
810 has been or is being abused, neglected, or exploited shall  
811 immediately report such knowledge or suspicion to the central  
812 abuse hotline pursuant to chapter 415.

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813       (2) Each licensed assisted living facility must be  
814 inspected by the agency at least once every 24 months to  
815 determine compliance with this chapter and related rules. If an  
816 assisted living facility is cited for one or more class I  
817 violations or two or more class II violations arising from  
818 separate surveys within a 60-day period or due to unrelated  
819 circumstances during the same survey, the agency must conduct an  
820 additional licensure inspection within 6 months. In addition to  
821 any fines imposed on the facility under s. 429.19, the licensee  
822 must pay a fee for the cost of the additional inspection  
823 equivalent to the standard assisted living facility license and  
824 per-bed fees, without exception for beds designated for  
825 recipients of optional state supplementation. The agency shall  
826 adjust the fee in accordance with s. 408.805.

827       Section 11. Present subsections (1) through (11) of section  
828 429.52, Florida Statutes, are redesignated as subsections (2)  
829 through (12), respectively, a new subsection (1) is added to  
830 that section, and present subsection (9) of that section is  
831 amended, to read:

832       429.52 Staff training and educational programs; core  
833 educational requirement.—

834       (1) Effective October 1, 2013, each new assisted living  
835 facility employee who has not previously completed core training  
836 must attend a preservice orientation provided by the facility  
837 before interacting with residents. The preservice orientation  
838 must be at least 2 hours in duration and cover topics that help  
839 the employee provide responsible care and respond to the needs  
840 of residents of the facility. Upon completion, the employee and  
841 the administrator of the facility must sign an affidavit stating

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842 that the employee completed the required preservice orientation.  
843 The facility must keep the affidavit in the employee's work  
844 file.

845 ~~(10)-(9)~~ The training required by this section must ~~shall~~ be  
846 conducted by persons registered with the department as having  
847 the requisite experience and credentials to conduct the  
848 training. A person seeking to register as a trainer must provide  
849 the department with proof of completion of the minimum core  
850 training education requirements, successful passage of the  
851 competency test established under this section, and proof of  
852 compliance with the continuing education requirement in  
853 subsection ~~(5)-(4)~~.

854 Section 12. The Legislature finds that consistent  
855 regulation of assisted living facilities benefits residents and  
856 operators of such facilities. To determine whether surveys are  
857 consistent between surveys and surveyors, the Agency for Health  
858 Care Administration shall conduct a study of intersurveyor  
859 reliability for assisted living facilities. By November 1, 2013,  
860 the agency shall report to the Governor, the President of the  
861 Senate, and the Speaker of the House of Representatives its  
862 findings and make any recommendations to improve intersurveyor  
863 reliability.

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

869 (1) Propose a rating system for assisted living facilities  
870 similar to that used for nursing homes. The proposal must

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871 include, but is not limited to, the data elements to be used,  
872 the method of collecting the data, the method of determining the  
873 rating, an estimate of the initial and ongoing costs of a rating  
874 system to both the agency and assisted living facilities, and a  
875 timetable for the implementation of the rating system for  
876 assisted living facilities. The agency shall submit its proposal  
877 to the Governor, the President of the Senate, and the Speaker of  
878 the House of Representatives by November 1, 2013.

879 (2) By January 1, 2014, create a content that is easily  
880 accessible through the front page of the agency's website. At a  
881 minimum, the content must include:

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

- 884 1. The name and address of the facility.
- 885 2. The number and type of licensed beds in the facility.
- 886 3. The types of licenses held by the facility.
- 887 4. The facility's license expiration date and status.
- 888 5. Other relevant information that the agency currently  
889 collects.

890 (b) A list of the facility's cited violations and a summary  
891 of each violation which is presented in an understandable manner  
892 to the general public.

893 (c) Links to inspection reports that the agency has on  
894 file.

895 (d) A monitored comment page, maintained by the agency,  
896 which allows citizens to anonymously comment on assisted living  
897 facilities that are licensed to operate in the state. This  
898 comment page must, at a minimum, allow members of the public to  
899 post comments on their experiences with, or observations of, an

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900 assisted living facility and to review other people's comments.  
901 Comments posted to the agency's comment page may not contain  
902 profanity and are intended to provide meaningful feedback about  
903 the assisted living facility. The agency shall provide for a  
904 webpage moderator to review comments for profane content before  
905 the comments are posted to the page. An employee, owner, or  
906 controlling interest in an assisted living facility is  
907 prohibited from posting comments on the page.

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