

By Senator Legg

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1 A bill to be entitled
2 An act relating to adult day care centers; amending s.
3 429.901, F.S.; defining the terms "adult day services"
4 and "respite"; amending s. 429.905, F.S.; revising
5 exemptions from licensure and regulation; amending s.
6 429.907, F.S.; providing for operation of an adult day
7 care center in a temporary location under certain
8 conditions; providing notification requirements when a
9 center relocates; authorizing the Agency for Health
10 Care Administration to grant a conditional license to
11 certain centers that relocate; providing license
12 renewal and inspection requirements; revising
13 exemptions for licensure; amending s. 429.911, F.S.;
14 revising a ground for agency action against the owner
15 of a center or its operator or employee; amending s.
16 429.915, F.S.; authorizing the agency to issue a
17 conditional license to a center that temporarily
18 relocates; amending s. 429.917, F.S.; revising staff
19 training requirements; requiring a center to provide
20 certain disclosures; amending s. 429.931, F.S.;
21 requiring a center to notify the agency before
22 proceeding with building alterations under certain
23 circumstances; amending s. 400.141, F.S.; conforming a
24 cross-reference; providing an effective date.

25
26 Be It Enacted by the Legislature of the State of Florida:

27
28 Section 1. Present subsections (2) through (8) and (9) of
29 section 429.901, Florida Statutes, are renumbered as subsections

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30 (3) through (9) and (11), respectively, and a new subsection (2)
31 and subsection (10) are added to that section, to read:

32 429.901 Definitions.—As used in this part, the term:

33 (2) "Adult day care services" means community-based group
34 services designed to provide social, health, therapeutic,
35 recreational, nutritional, or respite services to adults who
36 need supervised care in a safe environment during the day. Adult
37 day care services offer cost-effective care while supporting
38 individual autonomy, allowing the participant to age in place,
39 and enhancing the quality of life of the participant, the
40 caregiver, and the community. These services are designed to:

41 (a) Delay or prevent institutionalization.

42 (b) Improve the ability to function independently through
43 the delivery of individualized care.

44 (c) Offer an alternative setting for adults who have
45 chronic and long-term health care needs.

46 (d) Improve or stabilize cognitive functioning.

47 (e) Educate caregivers.

48 (f) Provide respite for caregivers.

49 (g) Increase access to resources and information.

50 (10) "Respite" means short-term, temporary relief for a
51 person who is caring for a family member who might otherwise
52 require permanent placement in a facility outside the home.

53 Section 2. Section 429.905, Florida Statutes, is amended to
54 read:

55 429.905 Exemptions; ~~monitoring of adult day care center~~
56 ~~programs colocated with assisted living facilities or licensed~~
57 ~~nursing home facilities.—~~

58 ~~(1) The following are exempt from this part:~~

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59 ~~(a) Any A~~ facility, institution, or other place that is
60 operated by the Federal Government or any agency thereof is
61 exempt from this part.

62 ~~(b) Any freestanding inpatient hospice facility that is~~
63 ~~licensed by the state and which provides day care services to~~
64 ~~hospice patients only.~~

65 ~~(2) A licensed assisted living facility, a licensed~~
66 ~~hospital, or a licensed nursing home facility may provide~~
67 ~~services during the day which include, but are not limited to,~~
68 ~~social, health, therapeutic, recreational, nutritional, and~~
69 ~~respite services, to adults who are not residents. Such a~~
70 ~~facility need not be licensed as an adult day care center,~~
71 ~~however, the agency must monitor the facility during the regular~~
72 ~~inspection and at least biennially to ensure adequate space and~~
73 ~~sufficient staff. If an assisted living facility, a hospital, or~~
74 ~~a nursing home holds itself out to the public as an adult day~~
75 ~~care center, it must be licensed as such and meet all standards~~
76 ~~prescribed by statute and rule. For the purpose of this~~
77 ~~subsection, the term "day" means any portion of a 24-hour day.~~

78 Section 3. Section 429.907, Florida Statutes, is amended to
79 read:

80 429.907 License requirement; fee; exemption; display.—

81 (1) The requirements of part II of chapter 408 apply to the
82 provision of services that require licensure pursuant to this
83 part and part II of chapter 408 and to entities licensed by or
84 applying for such licensure from the Agency for Health Care
85 Administration pursuant to this part. A license issued by the
86 agency is required in order to operate an adult day care center
87 in this state.

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88 (2) (a) Except as otherwise provided in this subsection,
89 separate licenses are required for centers operated on separate
90 premises, even though operated under the same management.
91 Separate licenses are not required for separate buildings on the
92 same premises.

93 (b) If a licensed center becomes wholly or substantially
94 unusable due to a disaster or ~~due to~~ an emergency as those terms
95 are defined in s. 252.34 or due to alterations to the building
96 that may constitute a hazard to the safety of participants:

97 1. The licensee may continue to operate under its current
98 license in premises separate from that authorized under the
99 license if the licensee has:

100 a. Specified the location of the premises in its
101 comprehensive emergency management plan submitted to and
102 approved by the applicable county emergency management
103 authority; ~~and~~

104 b. Notified the agency and the county emergency management
105 authority within 24 hours after beginning to operate in another
106 of operating in the separate premises; or

107 c. Notified the agency within 30 days after commencement of
108 building alterations that require the licensee to temporarily
109 relocate to another premises for the safety of participants.

110 2. The licensee shall operate the separate premises only
111 while the licensed center's original location is substantially
112 unusable and for up to 180 days. The agency may extend use of
113 the alternate premises beyond the initial 180 days. The agency
114 may also review the operation of the ~~disaster~~ premises
115 quarterly.

116 3. A center may be granted a conditional license pursuant

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117 to s. 429.915 if the center has been in operation for more than
118 1 year before moving to a new location. The agency must inspect
119 the new location within 6 months after the center relocates. The
120 center must submit an application for conditional license
121 renewal at least 60 days before the conditional license expires.

122 (3) In accordance with s. 408.805, an applicant or licensee
123 shall pay a fee for each license application submitted under
124 this part and part II of chapter 408. The amount of the fee
125 shall be established by rule and ~~may not exceed \$150.~~

126 ~~(4) County-operated or municipally operated centers~~
127 ~~applying for licensure under this part are exempt from the~~
128 ~~payment of license fees.~~

129 Section 4. Paragraph (a) of subsection (2) of section
130 429.911, Florida Statutes, is amended to read:

131 429.911 Denial, suspension, revocation of license;
132 emergency action; administrative fines; investigations and
133 inspections.-

134 (2) Each of the following actions by the owner of an adult
135 day care center or by its operator or employee is a ground for
136 action by the agency against the owner of the center or its
137 operator or employee:

138 (a) An intentional or negligent act or the existence of
139 unsafe conditions at the center which materially affect
140 ~~affecting~~ the well-being, health, or safety of center
141 participants.

142 Section 5. Section 429.915, Florida Statutes, is amended to
143 read:

144 429.915 Conditional license.-In addition to the license
145 categories available in part II of chapter 408, the agency may

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146 issue a conditional license to an applicant for license renewal,
147 temporary relocation, or change of ownership if the applicant
148 fails to meet all standards and requirements for licensure. A
149 conditional license issued under this subsection must be limited
150 to a specific period not exceeding 6 months, as determined by
151 the agency, and must be accompanied by an approved plan of
152 correction.

153 Section 6. Paragraph (c) of subsection (1) and subsection
154 (2) of section 429.917, Florida Statutes, are amended to read:

155 429.917 Patients with Alzheimer's disease or other related
156 disorders; staff training requirements; certain disclosures.—

157 (1) An adult day care center licensed under this part must
158 provide the following staff training:

159 (c) In addition to the requirements of paragraphs (a) and
160 (b), an employee who will be providing direct care to a
161 participant who has Alzheimer's disease or a dementia-related
162 disorder must complete an additional 3 hours of training within
163 9 months after beginning employment. This training must include,
164 but is not limited to, the management of problem behaviors,
165 information about promoting the participant's independence in
166 activities of daily living, and instruction in skills for
167 working with families and caregivers, and the most current
168 information regarding Alzheimer's disease and dementia-related
169 disorders. This training must be offered annually and is
170 required for all employees providing direct care to
171 participants.

172 (2) A center licensed under this part which claims that it
173 provides special care for persons who have Alzheimer's disease
174 or other related disorders, but does not claim to be licensed or

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175 designated to provide specialized Alzheimer's disease services,
176 must disclose and document how ~~in its advertisements or in a~~
177 ~~separate document~~ those services that distinguish the care as
178 being especially applicable to, or suitable for, such persons.
179 ~~The center must give a copy of all such advertisements or a copy~~
180 ~~of the document to each person who requests information about~~
181 ~~the center and must maintain a copy of all such advertisements~~
182 ~~and documents in its records.~~ The agency shall examine all such
183 documentation ~~advertisements and documents in the center's~~
184 ~~records~~ as part of the license renewal procedure. An adult day
185 care center may not claim to be licensed or designated to
186 provide specialized Alzheimer's services unless the adult day
187 care center's license has been designated as such pursuant to s.
188 429.918.

189 Section 7. Section 429.931, Florida Statutes, is amended to
190 read:

191 429.931 Construction, repair, and renovation;
192 requirements.—

193 (1) The requirements for the construction, repair, and ~~the~~
194 renovation of a center must comply with the provisions of
195 chapter 553 which pertain to building construction standards,
196 including plumbing, electrical code, glass, manufactured
197 buildings, accessibility by physically handicapped persons, and
198 the state minimum building codes.

199 (2) The center must notify the agency 30 days before
200 commencement of building construction, repairs, or renovation to
201 request a conditional license if the construction, repairs, or
202 renovation will require the center to temporarily relocate.

203 Section 8. Paragraph (f) of subsection (1) of section

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204 400.141, Florida Statutes, is amended to read:

205 400.141 Administration and management of nursing home
206 facilities.—

207 (1) Every licensed facility shall comply with all
208 applicable standards and rules of the agency and shall:

209 (f) Be allowed and encouraged by the agency to provide
210 other needed services under certain conditions. If the facility
211 has a standard licensure status, it may provide services,
212 including, but not limited to, respite, therapeutic spa, and
213 adult day services to nonresidents of the facility. A facility
214 is not subject to any additional licensure requirements for
215 providing these services. Respite care may be offered to persons
216 in need of short-term or temporary nursing home services.
217 Respite care must be provided in accordance with this part.

218 ~~Providers of adult day services must comply with the~~
219 ~~requirements of s. 429.905(2).~~ The agency shall allow for shared
220 programming and staff in a facility which meets minimum
221 standards and offers services pursuant to this paragraph, but,
222 if the facility is cited for deficiencies in patient care, may
223 require additional staff and programs appropriate to the needs
224 of service recipients. A person who receives respite care may
225 not be counted as a resident of the facility for purposes of the
226 facility's licensed capacity unless that person receives 24-hour
227 respite care. A person receiving either respite care for 24
228 hours or longer or adult day services must be included when
229 calculating minimum staffing for the facility. Any costs and
230 revenues generated by a nursing home facility from
231 nonresidential programs or services shall be excluded from the
232 calculations of Medicaid per diems for nursing home

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233 institutional care reimbursement.

234 Section 9. This act shall take effect July 1, 2014.