

By the Committee on Health Policy; and Senators Sobel and Gaetz

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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 managed care plans are responsible for mental health
5 residents enrolled in Medicaid; specifying 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 in a Medicaid
9 managed care plan; deleting a provision to conform to
10 changes made by the act; requiring that the community
11 living support plan be completed and provided to the
12 administrator of a facility upon the mental health
13 resident's admission; requiring the community living
14 support plan to be updated when there is a significant
15 change to the mental health resident's behavioral
16 health status; requiring the case manager assigned to
17 a mental health resident for whom the mental health
18 services provider is responsible to keep a record of
19 the date and time of face-to-face interactions with
20 the resident and to make the record available to the
21 entity responsible for inspection; requiring that the
22 record be maintained for a specified time; requiring
23 the responsible entity to ensure that there is
24 adequate and consistent monitoring and enforcement of
25 community living support plans and cooperative
26 agreements and that concerns are reported to the
27 appropriate regulatory oversight organization under
28 certain circumstances; amending s. 400.0074, F.S.;
29 requiring that an administrative assessment conducted

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30 by a local council be comprehensive in nature;
31 requiring a local council to conduct an exit
32 consultation with the facility administrator or
33 administrator designee to discuss issues and concerns
34 in areas affecting residents' rights, health, safety,
35 and welfare and make recommendations for any needed
36 improvements; amending s. 400.0078, F.S.; requiring
37 that a resident of a long-term care facility, or his
38 or her representative, be informed that retaliatory
39 action cannot be taken against a resident for
40 presenting grievances or for exercising any other
41 resident right; amending s. 429.07, F.S.; revising the
42 requirement that an extended congregate care license
43 be issued to certain facilities that have been
44 licensed as assisted living facilities under certain
45 circumstances and authorizing the issuance of such
46 license if a specified condition is met; providing the
47 purpose of an extended congregate care license;
48 specifying that the initial extended congregate care
49 license of an assisted living facility is provisional
50 under certain circumstances; requiring a licensee to
51 notify the Agency for Health Care Administration if it
52 accepts a resident who qualifies for extended
53 congregate care services; requiring the agency to
54 inspect the facility for compliance with the
55 requirements of an extended congregate care license;
56 requiring the issuance of an extended congregate care
57 license under certain circumstances; requiring the
58 licensee to immediately suspend extended congregate

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59 care services under certain circumstances; requiring a
60 registered nurse representing the agency to visit the
61 facility at least twice a year, rather than quarterly,
62 to monitor residents who are receiving extended
63 congregate care services; authorizing the agency to
64 waive one of the required yearly monitoring visits
65 under certain circumstances; authorizing the agency to
66 deny or revoke a facility's extended congregate care
67 license; requiring a registered nurse representing the
68 agency to visit the facility at least annually, rather
69 than twice a year, to monitor residents who are
70 receiving limited nursing services; providing that
71 such monitoring visits may be conducted in conjunction
72 with other inspections by the agency; authorizing the
73 agency to waive the required yearly monitoring visit
74 for a facility that is licensed to provide limited
75 nursing services under certain circumstances; amending
76 s. 429.075, F.S.; requiring that an assisted living
77 facility that serves one or more mental health
78 residents, rather than three or more such residents,
79 obtain a limited mental health license; amending s.
80 429.14, F.S.; revising the circumstances under which
81 the agency may deny, revoke, or suspend the license of
82 an assisted living facility and impose an
83 administrative fine; requiring the agency to deny or
84 revoke the license of an assisted living facility
85 under certain circumstances; requiring the agency to
86 impose an immediate moratorium on the license of an
87 assisted living facility under certain circumstances;

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88 prohibiting a licensee from restricting agency staff
89 from accessing and copying certain records or
90 conducting certain interviews; deleting a provision
91 requiring the agency to provide a list of facilities
92 with denied, suspended, or revoked licenses to the
93 Department of Business and Professional Regulation;
94 exempting a facility from the 45-day notice
95 requirement if it is required to relocate some or all
96 of its residents; specifying that the exemption does
97 not exempt a facility from any deadlines for
98 corrective action set by the agency; amending s.
99 429.178, F.S.; conforming cross-references; amending
100 s. 429.19, F.S.; revising the amounts and uses of
101 administrative fines; requiring the agency to levy a
102 fine for violations that are corrected before an
103 inspection if noncompliance occurred within a
104 specified period of time; deleting factors that the
105 agency is required to consider in determining
106 penalties and fines; amending s. 429.256, F.S.;;
107 revising the term "assistance with self-administration
108 of medication" as it relates to the Assisted Living
109 Facilities Act; amending s. 429.28, F.S.; providing
110 notice requirements for informing facility residents
111 that the name and identity of the resident and
112 complainant in any complaint made to the State Long-
113 Term Care Ombudsman Program or a local long-term care
114 ombudsman council is confidential and that retaliatory
115 action may not be taken against a resident for
116 presenting grievances or for exercising any other

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117 resident right; requiring that a facility that
118 terminates an individual's residency after the filing
119 of a complaint be fined if good cause is not shown for
120 the termination; amending s. 429.34, F.S.; requiring
121 certain persons to report elder abuse in assisted
122 living facilities; requiring the agency to regularly
123 inspect each licensed assisted living facility;
124 requiring the agency to conduct more frequent
125 inspections under certain circumstances; requiring the
126 licensee to pay a fee for the cost of additional
127 inspections; requiring the agency to annually adjust
128 the fee; amending s. 429.41, F.S.; providing that
129 certain staffing requirements apply only to residents
130 in continuing care facilities who are receiving
131 relevant services; amending s. 429.52, F.S.; requiring
132 each newly hired employee of an assisted living
133 facility to attend a preservice orientation provided
134 by the assisted living facility; requiring the
135 employee and administrator to sign a statement that
136 the employee completed the required preservice
137 orientation and keep the signed statement in the
138 employee's personnel record; requiring 2 additional
139 hours of training for assistance with medication;
140 conforming a cross-reference; requiring the agency to
141 implement a rating system for assisted living
142 facilities by a specified date, adopt rules, and
143 create content for the agency's website by a specified
144 date which provides consumers information regarding
145 assisted living facilities; providing criteria for the

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146 content; providing appropriations; providing an
147 effective date.

148
149 Be It Enacted by the Legislature of the State of Florida:

150
151 Section 1. Section 394.4574, Florida Statutes, is amended
152 to read:

153 394.4574 ~~Department~~ Responsibilities for coordination of
154 services for a mental health resident who resides in an assisted
155 living facility that holds a limited mental health license.—

156 (1) As used in this section, the term "mental health
157 resident" ~~"mental health resident," for purposes of this~~
158 ~~section,~~ means an individual who receives social security
159 disability income due to a mental disorder as determined by the
160 Social Security Administration or receives supplemental security
161 income due to a mental disorder as determined by the Social
162 Security Administration and receives optional state
163 supplementation.

164 (2) Medicaid managed care plans are responsible for
165 Medicaid-enrolled mental health residents, and managing entities
166 under contract with the department are responsible for mental
167 health residents who are not enrolled in a Medicaid health plan.
168 A Medicaid managed care plan or a managing entity, as
169 appropriate, shall ~~The department must~~ ensure that:

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

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175 provided to the administrator of the facility within 30 days
176 after the mental health resident has been admitted to the
177 facility. An evaluation completed upon discharge from a state
178 mental hospital meets the requirements of this subsection
179 related to appropriateness for placement as a mental health
180 resident if it was completed within 90 days before ~~prior to~~
181 admission to the facility.

182 (b) A cooperative agreement, as required in s. 429.075, is
183 developed by ~~between~~ the mental health care services provider
184 that serves a mental health resident and the administrator of
185 the assisted living facility with a limited mental health
186 license in which the mental health resident is living. ~~Any~~
187 ~~entity that provides Medicaid prepaid health plan services shall~~
188 ~~ensure the appropriate coordination of health care services with~~
189 ~~an assisted living facility in cases where a Medicaid recipient~~
190 ~~is both a member of the entity's prepaid health plan and a~~
191 ~~resident of the assisted living facility. If the entity is at~~
192 ~~risk for Medicaid targeted case management and behavioral health~~
193 ~~services, the entity shall inform the assisted living facility~~
194 ~~of the procedures to follow should an emergent condition arise.~~

195 (c) The community living support plan, as defined in s.
196 429.02, has been prepared by a mental health resident and his or
197 her ~~a~~ mental health case manager ~~of that resident~~ in
198 consultation with the administrator of the facility or the
199 administrator's designee. The plan must be completed and
200 provided to the administrator of the assisted living facility
201 with a limited mental health license in which the mental health
202 resident lives upon the resident's admission. The support plan
203 and the agreement may be in one document.

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

207 (e) The mental health services provider assigns a case
208 manager to each mental health resident for whom the entity is
209 responsible ~~who lives in an assisted living facility with a~~
210 ~~limited mental health license.~~ The case manager shall coordinate
211 ~~is responsible for coordinating~~ the development ~~of~~ and
212 implementation of the community living support plan defined in
213 s. 429.02. The plan must be updated at least annually, or when
214 there is a significant change in the resident's behavioral
215 health status, such as an inpatient admission or a change in
216 medication, level of service, or residence. Each case manager
217 shall keep a record of the date and time of any face-to-face
218 interaction with the resident and make the record available to
219 the responsible entity for inspection. The record must be
220 retained for at least 2 years after the date of the most recent
221 interaction.

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

225 (g) Concerns are reported to the appropriate regulatory
226 oversight organization if a regulated provider fails to deliver
227 appropriate services or otherwise acts in a manner that has the
228 potential to result in harm to the resident.

229 (3) The Secretary of Children and Families, in consultation
230 with the Agency for Health Care Administration, shall ~~annually~~
231 require each district administrator to develop, with community
232 input, a detailed annual plan that demonstrates ~~detailed plans~~

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233 ~~that demonstrate~~ how the district will ensure the provision of
234 state-funded mental health and substance abuse treatment
235 services to residents of assisted living facilities that hold a
236 limited mental health license. This plan ~~These plans~~ must be
237 consistent with the substance abuse and mental health district
238 plan developed pursuant to s. 394.75 and must address case
239 management services; access to consumer-operated drop-in
240 centers; access to services during evenings, weekends, and
241 holidays; supervision of the clinical needs of the residents;
242 and access to emergency psychiatric care.

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

246 400.0074 Local ombudsman council onsite administrative
247 assessments.—

248 (1) In addition to any specific investigation conducted
249 pursuant to a complaint, the local council shall conduct, at
250 least annually, an onsite administrative assessment of each
251 nursing home, assisted living facility, and adult family-care
252 home within its jurisdiction. This administrative assessment
253 must be comprehensive in nature and must ~~shall~~ focus on factors
254 affecting residents' ~~the~~ rights, health, safety, and welfare ~~of~~
255 ~~the residents~~. Each local council is encouraged to conduct a
256 similar onsite administrative assessment of each additional
257 long-term care facility within its jurisdiction.

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

260 (h) The local council shall conduct an exit consultation
261 with the facility administrator or administrator's designee to

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262 discuss issues and concerns in areas affecting residents'
263 rights, health, safety, and welfare and, if needed, make
264 recommendations for improvement.

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

267 400.0078 Citizen access to State Long-Term Care Ombudsman
268 Program services.—

269 (2) ~~Every resident or representative of a resident shall~~
270 ~~receive,~~ Upon admission to a long-term care facility, each
271 resident or representative of a resident must receive
272 information regarding the purpose of the State Long-Term Care
273 Ombudsman Program, the statewide toll-free telephone number for
274 receiving complaints, information that retaliatory action cannot
275 be taken against a resident for presenting grievances or for
276 exercising any other resident right, and other relevant
277 information regarding how to contact the program. Each resident
278 or his or her representative ~~Residents or their representatives~~
279 must be furnished additional copies of this information upon
280 request.

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

283 429.07 License required; fee.—

284 (3) In addition to the requirements of s. 408.806, each
285 license granted by the agency must state the type of care for
286 which the license is granted. Licenses shall be issued for one
287 or more of the following categories of care: standard, extended
288 congregate care, limited nursing services, or limited mental
289 health.

290 (b) An extended congregate care license shall be issued to

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291 each facility that has been licensed as an assisted living
292 facility for 2 or more years and that provides services
293 ~~facilities providing,~~ directly or through contract, ~~services~~
294 beyond those authorized in paragraph (a), including services
295 performed by persons licensed under part I of chapter 464 and
296 supportive services, as defined by rule, to persons who would
297 otherwise be disqualified from continued residence in a facility
298 licensed under this part. An extended congregate care license
299 may be issued to a facility that has a provisional extended
300 congregate care license and meets the requirements for licensure
301 under subparagraph 2. The primary purpose of extended congregate
302 care services is to allow residents the option of remaining in a
303 familiar setting from which they would otherwise be disqualified
304 for continued residency as they become more impaired. A facility
305 licensed to provide extended congregate care services may also
306 admit an individual who exceeds the admission criteria for a
307 facility with a standard license if the individual is determined
308 appropriate for admission to the extended congregate care
309 facility.

310 1. In order for extended congregate care services to be
311 provided, the agency must first determine that all requirements
312 established in law and rule are met and must specifically
313 designate~~r~~ on the facility's license~~r~~ that such services may be
314 provided and whether the designation applies to all or part of
315 the facility. This ~~Such~~ designation may be made at the time of
316 initial licensure or licensure renewal ~~relicensure~~, or upon
317 request in writing by a licensee under this part and part II of
318 chapter 408. The notification of approval or the denial of the
319 request shall be made in accordance with part II of chapter 408.

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320 Each existing facility that qualifies ~~facilities qualifying~~ to
321 provide extended congregate care services must have maintained a
322 standard license and may not have been subject to administrative
323 sanctions during the previous 2 years, or since initial
324 licensure if the facility has been licensed for less than 2
325 years, for any of the following reasons:

326 a. A class I or class II violation;

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

330 c. Three or more class III violations that were not
331 corrected in accordance with the corrective action plan approved
332 by the agency;

333 d. Violation of resident care standards which results in
334 requiring the facility to employ the services of a consultant
335 pharmacist or consultant dietitian;

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

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

342
343 The agency may deny or revoke a facility's extended congregate
344 care license if it fails to meet the criteria for an extended
345 congregate care license as provided in this subparagraph.

346 2. If an assisted living facility has been licensed for
347 less than 2 years, the initial extended congregate care license
348 must be provisional and may not exceed 6 months. Within the

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349 first 3 months after the provisional license is issued, the
350 licensee shall notify the agency, in writing, when it admits at
351 least one extended congregate care resident, after which an
352 unannounced inspection shall be made to determine compliance
353 with requirements of an extended congregate care license.
354 Failure to admit an extended congregate care resident within the
355 first 3 months renders the extended congregate care license
356 void. A licensee that has a provisional extended congregate care
357 license which demonstrates compliance with all of the
358 requirements of an extended congregate care license during the
359 inspection shall be issued an extended congregate care license.
360 In addition to sanctions authorized under this part, if
361 violations are found during the inspection and the licensee
362 fails to demonstrate compliance with all assisted living
363 requirements during a followup inspection, the licensee shall
364 immediately suspend extended congregate care services, and the
365 provisional extended congregate care license expires. The agency
366 may extend the provisional license for not more than 1 month in
367 order to complete a followup visit.

368 3.2. A facility that is licensed to provide extended
369 congregate care services shall maintain a written progress
370 report on each person who receives services which describes the
371 type, amount, duration, scope, and outcome of services that are
372 rendered and the general status of the resident's health. A
373 registered nurse, or appropriate designee, representing the
374 agency shall visit the facility at least twice a year ~~quarterly~~
375 to monitor residents who are receiving extended congregate care
376 services and to determine if the facility is in compliance with
377 this part, part II of chapter 408, and relevant rules. One of

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378 the visits may be in conjunction with the regular survey. The
379 monitoring visits may be provided through contractual
380 arrangements with appropriate community agencies. A registered
381 nurse shall serve as part of the team that inspects the
382 facility. The agency may waive one of the required yearly
383 monitoring visits for a facility that has:

384 a. Held an extended congregate care license for at least 24
385 months; been licensed for at least 24 months to provide extended
386 congregate care services, if, during the inspection, the
387 registered nurse determines that extended congregate care
388 services are being provided appropriately, and if the facility
389 has

390 b. No class I or class II violations and no uncorrected
391 class III violations; and-

392 c. No ombudsman council complaints that resulted in a
393 citation for licensure ~~The agency must first consult with the~~
394 ~~long term care ombudsman council for the area in which the~~
395 ~~facility is located to determine if any complaints have been~~
396 ~~made and substantiated about the quality of services or care.~~
397 ~~The agency may not waive one of the required yearly monitoring~~
398 ~~visits if complaints have been made and substantiated.~~

399 4.3. A facility that is licensed to provide extended
400 congregate care services must:

401 a. Demonstrate the capability to meet unanticipated
402 resident service needs.

403 b. Offer a physical environment that promotes a homelike
404 setting, provides for resident privacy, promotes resident
405 independence, and allows sufficient congregate space as defined
406 by rule.

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

410 d. Adopt and follow policies and procedures that maximize
411 resident independence, dignity, choice, and decisionmaking to
412 permit residents to age in place, so that moves due to changes
413 in functional status are minimized or avoided.

414 e. Allow residents or, if applicable, a resident's
415 representative, designee, surrogate, guardian, or attorney in
416 fact to make a variety of personal choices, participate in
417 developing service plans, and share responsibility in
418 decisionmaking.

419 f. Implement the concept of managed risk.

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

422 h. In addition to the training mandated in s. 429.52,
423 provide specialized training as defined by rule for facility
424 staff.

425 5.4. A facility that is licensed to provide extended
426 congregate care services is exempt from the criteria for
427 continued residency set forth in rules adopted under s. 429.41.
428 A licensed facility must adopt its own requirements within
429 guidelines for continued residency set forth by rule. However,
430 the facility may not serve residents who require 24-hour nursing
431 supervision. A licensed facility that provides extended
432 congregate care services must also provide each resident with a
433 written copy of facility policies governing admission and
434 retention.

435 ~~5. The primary purpose of extended congregate care services~~

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436 ~~is to allow residents, as they become more impaired, the option~~
437 ~~of remaining in a familiar setting from which they would~~
438 ~~otherwise be disqualified for continued residency. A facility~~
439 ~~licensed to provide extended congregate care services may also~~
440 ~~admit an individual who exceeds the admission criteria for a~~
441 ~~facility with a standard license, if the individual is~~
442 ~~determined appropriate for admission to the extended congregate~~
443 ~~care facility.~~

444 6. Before the admission of an individual to a facility
445 licensed to provide extended congregate care services, the
446 individual must undergo a medical examination as provided in s.
447 429.26(4) and the facility must develop a preliminary service
448 plan for the individual.

449 7. If ~~When~~ a facility can no longer provide or arrange for
450 services in accordance with the resident's service plan and
451 needs and the facility's policy, the facility must ~~shall~~ make
452 arrangements for relocating the person in accordance with s.
453 429.28(1)(k).

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

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

459 1. In order for limited nursing services to be provided in
460 a facility licensed under this part, the agency must first
461 determine that all requirements established in law and rule are
462 met and must specifically designate, on the facility's license,
463 that such services may be provided. This ~~Such~~ designation may be
464 made at the time of initial licensure or licensure renewal

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465 ~~relicensure~~, or upon request in writing by a licensee under this
466 part and part II of chapter 408. Notification of approval or
467 denial of such request shall be made in accordance with part II
468 of chapter 408. An existing facility that qualifies ~~facilities~~
469 ~~qualifying~~ to provide limited nursing services must ~~shall~~ have
470 maintained a standard license and may not have been subject to
471 administrative sanctions that affect the health, safety, and
472 welfare of residents for the previous 2 years or since initial
473 licensure if the facility has been licensed for less than 2
474 years.

475 2. A facility ~~Facilities~~ that is ~~are~~ licensed to provide
476 limited nursing services shall maintain a written progress
477 report on each person who receives such nursing services. The
478 ~~which~~ report must describe ~~describes~~ the type, amount, duration,
479 scope, and outcome of services that are rendered and the general
480 status of the resident's health. A registered nurse representing
481 the agency shall visit the facility ~~such facilities~~ at least
482 annually ~~twice a year~~ to monitor residents who are receiving
483 limited nursing services and to determine if the facility is in
484 compliance with applicable provisions of this part, part II of
485 chapter 408, and related rules. The monitoring visits may be
486 provided through contractual arrangements with appropriate
487 community agencies. A registered nurse shall also serve as part
488 of the team that inspects such facility. Visits may be in
489 conjunction with other agency inspections. The agency may waive
490 the required yearly monitoring visit for a facility that has:

491 a. Had a limited nursing services license for at least 24
492 months;

493 b. No class I or class II violations and no uncorrected

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494 class III violations; and

495 c. No ombudsman council complaints that resulted in a
 496 citation for licensure.

497 3. A person who receives limited nursing services under
 498 this part must meet the admission criteria established by the
 499 agency for assisted living facilities. When a resident no longer
 500 meets the admission criteria for a facility licensed under this
 501 part, arrangements for relocating the person shall be made in
 502 accordance with s. 429.28(1)(k), unless the facility is licensed
 503 to provide extended congregate care services.

504 Section 5. Section 429.075, Florida Statutes, is amended to
 505 read:

506 429.075 Limited mental health license.—An assisted living
 507 facility that serves one ~~three~~ or more mental health residents
 508 must obtain a limited mental health license.

509 (1) To obtain a limited mental health license, a facility
 510 must hold a standard license as an assisted living facility,
 511 must not have any current uncorrected ~~deficiencies or~~
 512 violations, and must ensure that, within 6 months after
 513 receiving a limited mental health license, the facility
 514 administrator and the staff of the facility who are in direct
 515 contact with mental health residents must complete training of
 516 no less than 6 hours related to their duties. This ~~Such~~
 517 designation may be made at the time of initial licensure or
 518 licensure renewal ~~relicensure~~ or upon request in writing by a
 519 licensee under this part and part II of chapter 408.

520 Notification of approval or denial of such request shall be made
 521 in accordance with this part, part II of chapter 408, and
 522 applicable rules. This training must ~~will~~ be provided by or

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523 approved by the Department of Children and Families.

524 (2) A facility that is ~~Facilities~~ licensed to provide
525 services to mental health residents must ~~shall~~ provide
526 appropriate supervision and staffing to provide for the health,
527 safety, and welfare of such residents.

528 (3) A facility that has a limited mental health license
529 must:

530 (a) Have a copy of each mental health resident's community
531 living support plan and the cooperative agreement with the
532 mental health care services provider. The support plan and the
533 agreement may be combined.

534 (b) Have documentation ~~that is~~ provided by the Department
535 of Children and Families that each mental health resident has
536 been assessed and determined to be able to live in the community
537 in an assisted living facility that has ~~with~~ a limited mental
538 health license.

539 (c) Make the community living support plan available for
540 inspection by the resident, the resident's legal guardian or
541 ~~the resident's~~ health care surrogate, and other individuals who
542 have a lawful basis for reviewing this document.

543 (d) Assist the mental health resident in carrying out the
544 activities identified in the individual's community living
545 support plan.

546 (4) A facility that has ~~with~~ a limited mental health
547 license may enter into a cooperative agreement with a private
548 mental health provider. For purposes of the limited mental
549 health license, the private mental health provider may act as
550 the case manager.

551 Section 6. Section 429.14, Florida Statutes, is amended to

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552 read:

553 429.14 Administrative penalties.—

554 (1) In addition to the requirements of part II of chapter
555 408, the agency may deny, revoke, and suspend any license issued
556 under this part and impose an administrative fine in the manner
557 provided in chapter 120 against a licensee for a violation of
558 ~~any provision of this part, part II of chapter 408, or~~
559 ~~applicable rules, or for any of the following actions by a~~
560 ~~licensee, for the actions of any person subject to level 2~~
561 ~~background screening under s. 408.809, or for the actions of any~~
562 ~~facility staff ~~employee~~:~~

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

565 (b) A ~~The~~ determination by the agency that the owner lacks
566 the financial ability to provide continuing adequate care to
567 residents.

568 (c) Misappropriation or conversion of the property of a
569 resident of the facility.

570 (d) Failure to follow the criteria and procedures provided
571 under part I of chapter 394 relating to the transportation,
572 voluntary admission, and involuntary examination of a facility
573 resident.

574 (e) A citation for ~~of~~ any of the following violations
575 ~~deficiencies~~ as specified in s. 429.19:

- 576 1. One or more cited class I violations ~~deficiencies~~.
- 577 2. Three or more cited class II violations ~~deficiencies~~.
- 578 3. Five or more cited class III violations ~~deficiencies~~
579 that have been cited on a single survey and have not been
580 corrected within the times specified.

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

583 (g) Violation of a moratorium.

584 (h) Failure of the license applicant, the licensee during
585 licensure renewal ~~relicensure~~, or a licensee that holds a
586 provisional license to meet the minimum license requirements of
587 this part, or related rules, at the time of license application
588 or renewal.

589 (i) An intentional or negligent life-threatening act in
590 violation of the uniform firesafety standards for assisted
591 living facilities or other firesafety standards which ~~that~~
592 threatens the health, safety, or welfare of a resident of a
593 facility, as communicated to the agency by the local authority
594 having jurisdiction or the State Fire Marshal.

595 (j) Knowingly operating any unlicensed facility or
596 providing without a license any service that must be licensed
597 under this chapter or chapter 400.

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

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

605 (3) The agency may deny or revoke a license of an ~~to any~~
606 applicant or controlling interest as defined in part II of
607 chapter 408 which has or had a 25 percent ~~25-percent~~ or greater
608 financial or ownership interest in any other facility that is
609 licensed under this part, or in any entity licensed by this

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610 state or another state to provide health or residential care, if
611 that ~~which~~ facility or entity during the 5 years before ~~prior to~~
612 the application for a license closed due to financial inability
613 to operate; had a receiver appointed or a license denied,
614 suspended, or revoked; was subject to a moratorium; or had an
615 injunctive proceeding initiated against it.

616 (4) The agency shall deny or revoke the license of an
617 assisted living facility if any of the following apply:

618 (a) There are two moratoria, issued pursuant to this part
619 or part II of chapter 408, within a 2-year period which are
620 imposed by final order.

621 (b) The facility is cited for two or more class I
622 violations arising from unrelated circumstances during the same
623 survey or investigation.

624 (c) The facility is cited for two or more class I
625 violations arising from separate surveys or investigations
626 within a 2-year period ~~that has two or more class I violations~~
627 ~~that are similar or identical to violations identified by the~~
628 ~~agency during a survey, inspection, monitoring visit, or~~
629 ~~complaint investigation occurring within the previous 2 years.~~

630 (5) An action taken by the agency to suspend, deny, or
631 revoke a facility's license under this part or part II of
632 chapter 408, in which the agency claims that the facility owner
633 or an employee of the facility has threatened the health,
634 safety, or welfare of a resident of the facility, shall be heard
635 by the Division of Administrative Hearings of the Department of
636 Management Services within 120 days after receipt of the
637 facility's request for a hearing, unless that time limitation is
638 waived by both parties. The administrative law judge shall ~~must~~

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639 render a decision within 30 days after receipt of a proposed
640 recommended order.

641 (6) As provided under s. 408.814, the agency shall impose
642 an immediate moratorium on an assisted living facility that
643 fails to provide the agency access to the facility or prohibits
644 the agency from conducting a regulatory inspection. The licensee
645 may not restrict agency staff in accessing and copying records
646 or in conducting confidential interviews with facility staff or
647 any individual who receives services from the facility provide
648 ~~to the Division of Hotels and Restaurants of the Department of~~
649 ~~Business and Professional Regulation, on a monthly basis, a list~~
650 ~~of those assisted living facilities that have had their licenses~~
651 ~~denied, suspended, or revoked or that are involved in an~~
652 ~~appellate proceeding pursuant to s. 120.60 related to the~~
653 ~~denial, suspension, or revocation of a license.~~

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

657 (8) If a facility is required to relocate some or all of
658 its residents due to agency action, that facility is exempt from
659 the 45 days' notice requirement imposed under s. 429.28(1)(k).
660 This subsection does not exempt the facility from any deadline
661 for corrective action set by the agency.

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

664 429.178 Special care for persons with Alzheimer's disease
665 or other related disorders.—

666 (2) (a) An individual who is employed by a facility that
667 provides special care for residents who have ~~with~~ Alzheimer's

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668 disease or other related disorders, and who has regular contact
669 with such residents, must complete up to 4 hours of initial
670 dementia-specific training developed or approved by the
671 department. The training must ~~shall~~ be completed within 3 months
672 after beginning employment and ~~shall~~ satisfy the core training
673 requirements of s. 429.52(3)(g) ~~s. 429.52(2)(g)~~.

674 (b) A direct caregiver who is employed by a facility that
675 provides special care for residents who have ~~with~~ Alzheimer's
676 disease or other related disorders, and who provides direct care
677 to such residents, must complete the required initial training
678 and 4 additional hours of training developed or approved by the
679 department. The training must ~~shall~~ be completed within 9 months
680 after beginning employment and ~~shall~~ satisfy the core training
681 requirements of s. 429.52(3)(g) ~~s. 429.52(2)(g)~~.

682 Section 8. Section 429.19, Florida Statutes, is amended to
683 read:

684 429.19 Violations; imposition of administrative fines;
685 grounds.—

686 (1) In addition to the requirements of part II of chapter
687 408, the agency shall impose an administrative fine in the
688 manner provided in chapter 120 for the violation of any
689 provision of this part, part II of chapter 408, and applicable
690 rules by an assisted living facility, for the actions of any
691 person subject to level 2 background screening under s. 408.809,
692 for the actions of any facility employee, or for an intentional
693 or negligent act seriously affecting the health, safety, or
694 welfare of a resident of the facility.

695 (2) Each violation of this part and adopted rules shall be
696 classified according to the nature of the violation and the

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697 gravity of its probable effect on facility residents.

698 (a) The agency shall indicate the classification on the
699 written notice of the violation as follows:

700 1.~~(a)~~ Class "I" violations are defined in s. 408.813. The
701 agency shall impose an administrative fine of \$7,500 for each a
702 cited class I violation in a facility that is licensed for fewer
703 than 100 beds at the time of the in an amount not less than
704 \$5,000 and not exceeding \$10,000 for each violation. The agency
705 shall impose an administrative fine of \$11,250 for each cited
706 class I violation in a facility that is licensed for 100 or more
707 beds at the time of the violation. If the agency has knowledge
708 of a class I violation that occurred within 12 months before an
709 inspection, a fine must be levied for that violation regardless
710 of whether the noncompliance was corrected before the
711 inspection.

712 2.~~(b)~~ Class "II" violations are defined in s. 408.813. The
713 agency shall impose an administrative fine of \$3,000 for each a
714 cited class II violation in a facility that is licensed for
715 fewer than 100 beds at the time of the in an amount not less
716 than \$1,000 and not exceeding \$5,000 for each violation. The
717 agency shall impose an administrative fine of \$4,500 for each
718 cited class II violation in a facility that is licensed for 100
719 or more beds at the time of the violation.

720 3.~~(c)~~ Class "III" violations are defined in s. 408.813. The
721 agency shall impose an administrative fine of \$750 for each a
722 cited class III violation in a facility that is licensed for
723 fewer than 100 beds at the time of the in an amount not less
724 than \$500 and not exceeding \$1,000 for each violation. The
725 agency shall impose an administrative fine of \$1,125 for each

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726 cited class III violation in a facility that is licensed for 100
727 or more beds at the time of the violation.

728 4.~~(d)~~ Class "IV" violations are defined in s. 408.813. The
729 agency shall impose an administrative fine of \$150 for each a
730 cited class IV violation in a facility that is licensed for
731 fewer than 100 beds at the time of the ~~in an amount not less~~
732 than \$100 and not exceeding \$200 for each violation. The agency
733 shall impose an administrative fine of \$225 for each cited class
734 IV violation in a facility that is licensed for 100 or more beds
735 at the time of the violation.

736 (b) Any fine imposed for a class I violation or a class II
737 violation must be doubled if a facility was previously cited for
738 one or more class I or class II violations during the agency's
739 last licensure inspection or any inspection or complaint
740 investigation since the last licensure inspection.

741 (c) Notwithstanding s. 408.813(2)(c) and (d) and s.
742 408.832, a fine must be imposed for each class III or class IV
743 violation, regardless of correction, if a facility was
744 previously cited for one or more class III or class IV
745 violations during the agency's last licensure inspection or any
746 inspection or complaint investigation since the last licensure
747 inspection for the same regulatory violation. A fine imposed for
748 a class III or a class IV violation must be doubled if a
749 facility was previously cited for one or more class III or class
750 IV violations during the agency's last two licensure inspections
751 for the same regulatory violation.

752 (d) Regardless of the class of violation cited, instead of
753 the fine amounts listed in subparagraphs (a)1.-4., the agency
754 shall impose an administrative fine of \$500 if a facility is

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755 found not to be in compliance with the background screening
756 requirements as provided in s. 408.809.

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

760 ~~(a) The gravity of the violation, including the probability~~
761 ~~that death or serious physical or emotional harm to a resident~~
762 ~~will result or has resulted, the severity of the action or~~
763 ~~potential harm, and the extent to which the provisions of the~~
764 ~~applicable laws or rules were violated.~~

765 ~~(b) Actions taken by the owner or administrator to correct~~
766 ~~violations.~~

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

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

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

771 (3)~~(4)~~ Each day of continuing violation after the date
772 established by the agency ~~fixed~~ for correction ~~termination~~ of
773 the violation, ~~as ordered by the agency,~~ constitutes an
774 additional, separate, and distinct violation.

775 (4)~~(5)~~ An ~~Any~~ action taken to correct a violation shall be
776 documented in writing by the owner or administrator of the
777 facility and verified through followup visits by agency
778 personnel. The agency may impose a fine and, in the case of an
779 owner-operated facility, revoke or deny a facility's license
780 when a facility administrator fraudulently misrepresents action
781 taken to correct a violation.

782 (5)~~(6)~~ A ~~Any~~ facility whose owner fails to apply for a
783 change-of-ownership license in accordance with part II of

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784 chapter 408 and operates the facility under the new ownership is
785 subject to a fine of \$5,000.

786 (6)~~(7)~~ In addition to any administrative fines imposed, the
787 agency may assess a survey fee, equal to the lesser of one half
788 of the facility's biennial license and bed fee or \$500, to cover
789 the cost of conducting initial complaint investigations that
790 result in the finding of a violation that was the subject of the
791 complaint or monitoring visits conducted under s. 429.28(3)(c)
792 to verify the correction of the violations.

793 (7)~~(8)~~ During an inspection, the agency shall make a
794 reasonable attempt to discuss each violation with the owner or
795 administrator of the facility, before ~~prior to~~ written
796 notification.

797 (8)~~(9)~~ The agency shall develop and disseminate an annual
798 list of all facilities sanctioned or fined for violations of
799 state standards, the number and class of violations involved,
800 the penalties imposed, and the current status of cases. The list
801 shall be disseminated, at no charge, to the Department of
802 Elderly Affairs, the Department of Health, the Department of
803 Children and Families, the Agency for Persons with Disabilities,
804 the area agencies on aging, the Florida Statewide Advocacy
805 Council, and the state and local ombudsman councils. The
806 Department of Children and Families shall disseminate the list
807 to service providers under contract to the department who are
808 responsible for referring persons to a facility for residency.
809 The agency may charge a fee commensurate with the cost of
810 printing and postage to other interested parties requesting a
811 copy of this list. This information may be provided
812 electronically or through the agency's website ~~Internet site~~.

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813 Section 9. Subsection (3) and paragraph (c) of subsection
814 (4) of section 429.256, Florida Statutes, are amended to read:

815 429.256 Assistance with self-administration of medication.—

816 (3) Assistance with self-administration of medication
817 includes:

818 (a) Taking the medication, in its previously dispensed,
819 properly labeled container, including an insulin syringe that is
820 prefilled with the proper dosage by a pharmacist and an insulin
821 pen that is prefilled by the manufacturer, from where it is
822 stored, and bringing it to the resident.

823 (b) In the presence of the resident, reading the label,
824 opening the container, removing a prescribed amount of
825 medication from the container, and closing the container.

826 (c) Placing an oral dosage in the resident's hand or
827 placing the dosage in another container and helping the resident
828 by lifting the container to his or her mouth.

829 (d) Applying topical medications.

830 (e) Returning the medication container to proper storage.

831 (f) Keeping a record of when a resident receives assistance
832 with self-administration under this section.

833 (g) Assisting with the use of a nebulizer, including
834 removing the cap of a nebulizer, opening the unit dose of
835 nebulizer solution, and pouring the prescribed premeasured dose
836 of medication into the dispensing cup of the nebulizer.

837 (h) Using a glucometer to perform blood-glucose level
838 checks.

839 (i) Assisting with putting on and taking off antiembolism
840 stockings.

841 (j) Assisting with applying and removing an oxygen cannula,

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842 but not with titrating the prescribed oxygen settings.

843 (k) Assisting with the use of a continuous positive airway
844 pressure (CPAP) device, but not with titrating the prescribed
845 setting of the device.

846 (l) Assisting with measuring vital signs.

847 (m) Assisting with colostomy bags.

848 (4) Assistance with self-administration does not include:

849 ~~(c) Administration of medications through intermittent~~
850 ~~positive pressure breathing machines or a nebulizer.~~

851 Section 10. Subsections (2), (5), and (6) of section
852 429.28, Florida Statutes, are amended to read:

853 429.28 Resident bill of rights.—

854 (2) The administrator of a facility shall ensure that a
855 written notice of the rights, obligations, and prohibitions set
856 forth in this part is posted in a prominent place in each
857 facility and read or explained to residents who cannot read. The
858 ~~This~~ notice must shall include the name, address, and telephone
859 numbers of the local ombudsman council, the and central abuse
860 hotline, and, if when applicable, Disability Rights Florida the
861 ~~Advocacy Center for Persons with Disabilities, Inc., and the~~
862 ~~Florida local advocacy council~~, where complaints may be lodged.
863 The notice must state that a complaint made to the Office of
864 State Long-Term Care Ombudsman or a local long-term care
865 ombudsman council, the names and identities of the residents
866 involved in the complaint, and the identity of complainants are
867 kept confidential pursuant to s. 400.0077 and that retaliatory
868 action cannot be taken against a resident for presenting
869 grievances or for exercising any other resident right. The
870 facility must ensure a resident's access to a telephone to call

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871 the local ombudsman council, central abuse hotline, and
 872 Disability Rights Florida Advocacy Center for Persons with
 873 Disabilities, Inc., and the Florida local advocacy council.

874 (5) A ~~No~~ facility or employee of a facility may not serve
 875 notice upon a resident to leave the premises or take any other
 876 retaliatory action against any person who:

877 (a) Exercises any right set forth in this section.

878 (b) Appears as a witness in any hearing, inside or outside
 879 the facility.

880 (c) Files a civil action alleging a violation of the
 881 provisions of this part or notifies a state attorney or the
 882 Attorney General of a possible violation of such provisions.

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

889 Section 11. Section 429.34, Florida Statutes, is amended to
 890 read:

891 429.34 Right of entry and inspection.—

892 (1) In addition to the requirements of s. 408.811, any duly
 893 designated officer or employee of the department, the Department
 894 of Children and Families, the Medicaid Fraud Control Unit of the
 895 Office of the Attorney General, the state or local fire marshal,
 896 or a member of the state or local long-term care ombudsman
 897 council has ~~shall have~~ the right to enter unannounced upon and
 898 into the premises of any facility licensed pursuant to this part
 899 in order to determine the state of compliance with ~~the~~

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900 ~~provisions of~~ this part, part II of chapter 408, and applicable
901 rules. Data collected by the state or local long-term care
902 ombudsman councils or the state or local advocacy councils may
903 be used by the agency in investigations involving violations of
904 regulatory standards. A person specified in this section who
905 knows or has reasonable cause to suspect that a vulnerable adult
906 has been or is being abused, neglected, or exploited shall
907 immediately report such knowledge or suspicion to the central
908 abuse hotline pursuant to chapter 415.

909 (2) The agency shall inspect each licensed assisted living
910 facility at least once every 24 months to determine compliance
911 with this chapter and related rules. If an assisted living
912 facility is cited for one or more class I violations or two or
913 more class II violations arising from separate surveys within a
914 60-day period or due to unrelated circumstances during the same
915 survey, the agency must conduct an additional licensure
916 inspection within 6 months. In addition to any fine imposed on
917 the facility under s. 429.19, the licensee shall pay a fee for
918 the cost of the additional inspection equivalent to the standard
919 assisted living facility license and per-bed fees, without
920 exception for beds designated for recipients of optional state
921 supplementation. The agency shall adjust the fee in accordance
922 with s. 408.805.

923 Section 12. Subsection (2) of section 429.41, Florida
924 Statutes, is amended to read:

925 429.41 Rules establishing standards.—

926 (2) In adopting any rules pursuant to this part, the
927 department, in conjunction with the agency, shall make distinct
928 standards for facilities based upon facility size; the types of

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929 care provided; the physical and mental capabilities and needs of
930 residents; the type, frequency, and amount of services and care
931 offered; and the staffing characteristics of the facility. Rules
932 developed pursuant to this section may ~~shall~~ not restrict the
933 use of shared staffing and shared programming in facilities that
934 are part of retirement communities that provide multiple levels
935 of care and otherwise meet the requirements of law and rule. If
936 a continuing care facility licensed under chapter 651 or a
937 retirement community offering multiple levels of care obtains a
938 license pursuant to this chapter for a building or part of a
939 building designated for independent living, staffing
940 requirements established in rule apply only to residents who
941 receive personal services, limited nursing services, or extended
942 congregate care services under this part. Such facilities shall
943 retain a log listing the names and unit number for residents
944 receiving these services. The log must be available to surveyors
945 upon request. Except for uniform firesafety standards, the
946 department shall adopt by rule separate and distinct standards
947 for facilities with 16 or fewer beds and for facilities with 17
948 or more beds. The standards for facilities with 16 or fewer beds
949 must ~~shall~~ be appropriate for a noninstitutional residential
950 environment; however, provided that the structure may not be ~~is~~
951 ~~no~~ more than two stories in height and all persons who cannot
952 exit the facility unassisted in an emergency must reside on the
953 first floor. The department, in conjunction with the agency, may
954 make other distinctions among types of facilities as necessary
955 to enforce the provisions of this part. Where appropriate, the
956 agency shall offer alternate solutions for complying with
957 established standards, based on distinctions made by the

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958 department and the agency relative to the physical
959 characteristics of facilities and the types of care offered
960 therein.

961 Section 13. Present subsections (1) through (11) of section
962 429.52, Florida Statutes, are redesignated as subsections (2)
963 through (12), respectively, a new subsection (1) is added to
964 that section, and present subsections (5) and (9) of that
965 section are amended, to read:

966 429.52 Staff training and educational programs; core
967 educational requirement.—

968 (1) Effective October 1, 2015, each new assisted living
969 facility employee who has not previously completed core training
970 must attend a preservice orientation provided by the facility
971 before interacting with residents. The preservice orientation
972 must be at least 2 hours in duration and cover topics that help
973 the employee provide responsible care and respond to the needs
974 of facility residents. Upon completion, the employee and the
975 administrator of the facility must sign a statement that the
976 employee completed the required preservice orientation. The
977 facility must keep the signed statement in the employee's
978 personnel record.

979 (6)~~(5)~~ Staff involved with the management of medications
980 and assisting with the self-administration of medications under
981 s. 429.256 must complete a minimum of 6 ~~4~~ additional hours of
982 training provided by a registered nurse, licensed pharmacist, or
983 department staff. The department shall establish by rule the
984 minimum requirements of this additional training.

985 (10)~~(9)~~ The training required by this section other than
986 the preservice orientation must ~~shall~~ be conducted by persons

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987 registered with the department as having the requisite
988 experience and credentials to conduct the training. A person
989 seeking to register as a trainer must provide the department
990 with proof of completion of the minimum core training education
991 requirements, successful passage of the competency test
992 established under this section, and proof of compliance with the
993 continuing education requirement in subsection (5)~~(4)~~.

994 Section 14. The Legislature finds that consumers need
995 additional information on the quality of care and service in
996 assisted living facilities in order to select the best facility
997 for themselves or their loved ones. Therefore, the Agency for
998 Health Care Administration shall:

999 (1) Implement a rating system for assisted living
1000 facilities by March 1, 2016. The agency shall adopt rules to
1001 administer this subsection.

1002 (2) By November 1, 2015, create content that is easily
1003 accessible through the front page of the agency's website. At a
1004 minimum, the content must include:

1005 (a) Information on each licensed assisted living facility,
1006 including, but not limited to:

1007 1. The name and address of the facility.

1008 2. The number and type of licensed beds in the facility.

1009 3. The types of licenses held by the facility.

1010 4. The facility's license expiration date and status.

1011 5. Other relevant information that the agency currently
1012 collects.

1013 (b) A list of the facility's violations, including, for
1014 each violation:

1015 1. A summary of the violation which is presented in a

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1016 manner understandable by the general public;
1017 2. Any sanctions imposed by final order; and
1018 3. The date the corrective action was confirmed by the
1019 agency.
1020 (c) Links to inspection reports that the agency has on
1021 file.
1022 Section 15. For the 2015-2016 fiscal year, the sums of
1023 \$156,943 in recurring funds and \$7,546 in nonrecurring funds are
1024 appropriated from the Health Care Trust Fund and two full-time
1025 equivalent senior attorney positions with associated salary rate
1026 of 103,652 are authorized in the Agency for Health Care
1027 Administration for the purpose of implementing the regulatory
1028 provisions of this act.
1029 Section 16. This act shall take effect July 1, 2015.