

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Children, Families, and Elder Affairs

BILL: CS/CS/SB 634

INTRODUCER: Children, Families, and Elder Affairs Committee; Health Policy Committee and Senator Gibson and others

SUBJECT: Dementia-related Staff Training

DATE: April 1, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Looke</u>	<u>Brown</u>	<u>HP</u>	<u>Fav/CS</u>
2.	<u>Moody</u>	<u>Cox</u>	<u>CF</u>	<u>Fav/CS</u>
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 634 creates s. 430.5025, F.S., to establish the Florida Alzheimer’s Disease and Dementia Training Act. The bill establishes universal Alzheimer’s disease and related disorder (ADRD) training requirements to be used by nursing homes, home health agencies, hospice providers, assisted living facilities, adult family-care homes, and adult day care centers to replace each license type’s individual training requirements on that topic.

The bill requires a licensee, as defined in the bill, to provide each of its employees, as defined under the bill, one hour of dementia-related training within 30 days of his or her employment. Employees hired on or before the effective date must complete the training within three months after it is developed or approved by the Department of Elder Affairs (DOEA).

Additionally, each licensee must require employees who are direct care workers, as defined by the bill, who are expected to or required to have direct contact with clients, patients, or residents with ADRD to receive at least three hours of initial training within the first four months of employment and, except for hospice providers, two hours of continuing education every two years. Employees who are hired on or before the effective date must complete the training within six months after it is developed or approved by the DOEA.

If the licensee advertises that it provides special care for individuals with Alzheimer’s disease, the licensee must require each of its direct care workers to complete four additional hours of training within four months after employment begins.

The bill requires the DOEA or its designee to develop or approve the courses in a variety of formats and languages that may be used to satisfy the training requirements in the bill by January 1, 2022. The DOEA or its designee must also develop a process for approving or registering training providers who must have minimum specified qualifications and establish a method to verify that they are providing the required training. .

The completed training must count towards professional continuing education requirements in specified circumstances. Training providers must provide the employee or direct care worker with a certificate upon completion of the required training which must contain specified information. The certificate is evidence of completion of the course which may be relied upon to avoid having to repeat the training when an employee or direct care worker changes employment. Copies of the certificates must be kept and be available for inspection to meet the requirements of the facility's licensure.

The bill also amends ss. 400.1755, 400.4785, 400.6045, 429.178, 429.52, 429.83, and 429.917, F.S., to eliminate individual ADRD training requirements for nursing homes, home health service providers, hospice providers, assisted living facilities (ALF), adult family-care homes, and adult day care centers in favor of the uniform requirements established by the bill.

The bill may have an indeterminate negative fiscal impact on a facility required to provide ADRD training by the bill if such training is more extensive than what is required to be provided by the facility under current law. The DOEA reports that the bill does not have any fiscal impact to local or state government. See Section V. Fiscal Impact Statement.

The bill provides an effective date of October 1, 2021.

II. Present Situation:

Dementia and Alzheimer's Disease

Dementia is the loss of cognitive functioning—thinking, remembering, and reasoning—and behavioral abilities to such an extent that it interferes with a person's daily life and activities. These functions include memory, language skills, visual perception, problem solving, self-management, and the ability to focus and pay attention. Some people with dementia cannot control their emotions, and their personalities may change. Dementia ranges in severity from the mildest stage, when it is just beginning to affect a person's functioning, to the most severe stage, when the person must depend completely on others for basic activities of living.¹

Alzheimer's disease is the most common type of dementia. It is a progressive disease that begins with mild memory loss and can lead to loss of the ability to carry on a conversation and respond to one's environment. Alzheimer's disease affects parts of the brain that control thought, memory, and language. It can seriously affect a person's ability to carry out daily activities. Although scientists are studying the disease, what causes Alzheimer's disease is unknown.²

¹ National Institute on Aging, *What is Dementia? Symptoms, Types, and Diagnosis*, available at <https://www.nia.nih.gov/health/what-dementia-symptoms-types-and-diagnosis>, (last visited on March 22, 2021).

² Centers for Disease Control and Prevention, *Alzheimer's Disease and Healthy Aging*, available at <https://www.cdc.gov/aging/aginginfo/alzheimers.htm#AlzheimersDisease>, (last visited March 22, 2021).

There are an estimated 580,000 individuals living with Alzheimer's disease in the state of Florida.³ By 2025, it is projected that 720,000 Floridians will have Alzheimer's disease.⁴ Most individuals with Alzheimer's can live in the community with support, often provided by spouses or other family members. In the late stages of the disease, many patients require care 24 hours per day and are often served in long-term care facilities.

³ Alzheimer's Association, *Alzheimer's Statistics Florida*, available at <https://www.alz.org/media/Documents/florida-alzheimers-facts-figures-2018.pdf>, (last visited March 22, 2021).

⁴ *Id.*

Dementia and Alzheimer’s Disease Training

Overview by Facility Type

	All Employees	Employees with Expected or Required Direct Contact	Employees Providing Direct Care	Health Care Practitioner Continuing Education Sufficient?	Training Approved?	Additional Reqs.
Nursing Homes	Provided with basic written information about interacting with persons with ADRD upon beginning employment.	1 hour of training within the first 3 months of employment.	Additional 3 hours of training within the first 9 months of employment.	Yes	By DOEA.	
Home Health Agencies		Not specified.	2 hours of training within the first 9 months of employment.	Yes	By DOEA.	HHA’s that serve 90% individuals under age 21 are exempt.
Hospice Providers	ADRD upon beginning employment.	1 hour of training within the first 3 months of employment.	Additional 3 hours of training within the first 9 months of employment.	Yes	By DOEA.	
ALFs⁵	Employees with incidental contact must be given information within 3 months.	4 hours within 3 months of employment	4 additional hours within 9 months of employment + 4 hours CE annually	Not specified.	By DOEA	
Adult Day Care Centers	Same as nursing homes, home health agencies, and Hospice.	1 hour of training within the first 3 months of employment.	Additional 3 hours of training within the first 9 months of employment.	Yes	By DOEA	
Adult Family-Care Homes	None	None	None	Not Specified	By the Agency for Health Care Administration (AHCA)	

Details for each facility type are below:

⁵ Training is required if the ALF advertises that it provides special care for persons with Alzheimer’s disease or related disorders. Section 429.178, F.S.

Nursing Homes

Section 400.1755, F.S., requires each nursing home to provide the following training:

- Provide each of its employee's basic written information about interacting with persons with ADRD upon beginning employment.
- All employees who are expected to, or whose responsibilities require them to, have direct contact with residents with ADRD must also have an initial training of at least one hour completed in the first three months after beginning employment. This training must include, but is not limited to, an overview of dementias and must provide basic skills in communicating with persons with dementia.
- An individual who provides direct care must complete the required initial training and an additional three hours of training within nine months after beginning employment. This training must include, but is not limited to, managing problem behaviors, promoting the resident's independence in activities of daily living, and skills in working with families and caregivers. Health care practitioners' continuing education can be counted toward the required training hours.
- The DOEA or its designee must approve the initial and continuing training provided in the facilities. The DOEA must approve training offered in a variety of formats, including, but not limited to, Internet-based training, videos, teleconferencing, and classroom instruction. The DOEA must keep a list of current providers who are approved to provide initial and continuing training. The DOEA must adopt rules to establish standards for the trainers and the training required in this section of statute.
- Upon completing any training listed in the section, the employee or direct caregiver must be issued a certificate that includes the name of the training provider, the topic covered, and the date and signature of the training provider. The certificate is evidence of completion of training in the identified topic, and the employee or direct caregiver is not required to repeat training in that topic if the employee or direct caregiver changes employment to a different facility or to an assisted living facility, home health agency, adult day care center, or adult family-care home. The direct caregiver must comply with other applicable continuing education requirements.

Home Health Agencies

Section 400.4785, F.S., requires a home health agency to provide the following staff training:

- Upon beginning employment with the agency, each employee must receive basic written information about interacting with participants who have ADRD.
- Newly-hired home health agency personnel who will be providing direct care to patients must complete two hours of training in ADRD within nine months after beginning employment with the agency. This training must include, but is not limited to, an overview of dementia, a demonstration of basic skills in communicating with persons who have dementia, the management of problem behaviors, information about promoting the client's independence in activities of daily living, and instruction in skills for working with families and caregivers.
- For certified nursing assistants, the required two hours of training are part of the total hours of training required annually.

- For a health care practitioner, as defined in s. 456.001, F.S.,⁶ continuing education hours taken as required by that practitioner's licensing board are counted toward the total of two hours.
- For an employee who is a licensed health care practitioner, training that is sanctioned by that practitioner's licensing board must be considered to be approved by the DOEA.
- The DOEA, or its designee, must approve the required training. The DOEA must consider for approval training offered in a variety of formats. The DOEA must keep a list of current providers who are approved to provide the two-hour training. The DOEA must adopt rules to establish standards for the employees who are subject to this training, for the trainers, and for the training required in this section of statute.
- Upon completing the training listed in the section, the employee must be issued a certificate that states that the training mandated under the section has been received. The certificate must be dated and signed by the training provider. The certificate is evidence of completion of this training, and the employee is not required to repeat this training if the employee changes employment to a different home health agency.
- A licensed home health agency whose unduplicated census during the most recent calendar year was composed of at least 90 percent of individuals aged 21 years or younger at the date of admission, is exempt from the training requirements in this section of statute.

Hospice Providers

Section 400.6045, F.S., requires a hospice provider to provide the following staff training:

- Upon beginning employment with the agency, each employee must receive basic written information about interacting with persons who have ADRD.
- Employees who are expected to, or whose responsibilities require them to, have direct contact with participants who have ADRD must complete initial training of at least one hour within the first three months after beginning employment. The training must include an overview of dementias and must provide instruction in basic skills for communicating with persons who have dementia.
- In addition, an employee who will be providing direct care to a participant who has ADRD must complete an additional three hours of training within nine months after beginning employment. This training must include, but is not limited to, the management of problem behaviors, information about promoting the patient's independence in activities of daily living, and instruction in skills for working with families and caregivers.
- For certified nursing assistants, the required four hours of training is part of the total hours of training required annually.
- For a health care practitioner as defined in s. 456.001, F.S., continuing education hours taken as required by that practitioner's licensing board are counted toward the total of four hours.
- For an employee who is a licensed health care practitioner as defined in s. 456.001, F.S., training that is sanctioned by that practitioner's licensing board is considered to be approved by the DOEA.

⁶ Section 456.001(4), F.S., defines "health care practitioner" as any person licensed under ch. 457, F.S.; ch. 458, F.S.; ch. 459, F.S.; ch. 460, F.S.; ch. 461, F.S.; ch. 462, F.S.; ch. 463, F.S.; ch. 464, F.S.; ch. 465, F.S.; ch. 466, F.S.; ch. 467, F.S.; part I, part II, part III, part V, part X, part XII, or part XIV of ch. 468, F.S.; ch. 478, F.S.; ch. 480, F.S.; part I or part II of ch. 483, F.S.; ch. 484, F.S.; ch. 486, F.S.; ch. 490, F.S.; or ch. 491, F.S.

- The DOEA or its designee must approve the required one-hour and three-hour training provided to employees or direct caregivers under this section of statute. The DOEA must consider for approval training offered in a variety of formats. The DOEA must keep a list of current providers who are approved to provide the one-hour and three-hour training. The DOEA must adopt rules to establish standards for the employees who are subject to this training, for the trainers, and for the training required in this section of statute.
- Upon completing any training described in the section, the employee or direct caregiver must be issued a certificate that includes the name of the training provider, the topic covered, and the date and signature of the training provider. The certificate is evidence of completion of training in the identified topic, and the employee or direct caregiver is not required to repeat training in that topic if the employee or direct caregiver changes employment to a different hospice or to a home health agency, assisted living facility, nursing home, or adult day care center.
- A hospice that claims it provides special care for persons who have ADRD must disclose in its advertisements or in a separate document those services that distinguish the care as being especially applicable to, or suitable for, such persons. The hospice must give a copy of all such advertisements or a copy of the document to each person who requests information about programs and services for persons with ADRD offered by the hospice and must maintain a copy of all such advertisements and documents in its records. The Agency for Health Care Administration (AHCA) must examine all such advertisements and documents in the hospice's records as part of the license renewal procedure.

Assisted Living Facilities

Section 429.178, F.S., requires an ALF that advertises it provides special care for persons with ADRD to provide the following training:

- An employee who has regular contact with such residents must complete up to four hours of initial dementia-specific training developed or approved by the DOEA. The training must be completed within three months after beginning employment and satisfy the core training requirements of s. 429.52(3)(g), F.S.
- A direct caregiver who provides direct care to such residents must complete the required initial training and four additional hours of training developed or approved by the DOEA. The training must be completed within nine months after beginning employment and satisfy the core training requirements of s. 429.52(3)(g), F.S.
- An individual who is employed by a facility that provides special care for residents with ADRD, but who only has incidental contact with such residents, must be given, at a minimum, general information on interacting with individuals with ADRD, within three months after beginning employment.
- A direct caregiver must also participate in a minimum of four contact hours of continuing education each calendar year. The continuing education must include one or more topics included in the dementia-specific training, developed or approved by the DOEA, in which the caregiver has not received previous training.
- Upon completing any specified training, the employee or direct caregiver must be issued a certificate that includes the name of the training provider, the topic covered, and the date and signature of the training provider. The certificate is evidence of completion of training in the identified topic, and the employee or direct caregiver is not required to repeat training in that topic if the employee or direct caregiver changes employment to a different facility. The

employee or direct caregiver must comply with other applicable continuing education requirements.

- The DOEA, or its designee, must approve the initial and continuing education courses and providers.
- The DOEA must keep a current list of providers who are approved to provide initial and continuing education for staff of facilities that provide special care for persons with ADRD.

Adult Family-Care Homes

Adult family-care home providers are required to undergo 12 hours of training some of which must be related to Identifying and meeting the special needs of disabled adults and frail elders. However, providers are not currently required to undergo training specific to ADRD.⁷

Adult Day Care Centers

Section 429.917, F.S., requires an adult day care center to provide the following staff training:

- Upon beginning employment with the facility, each employee must receive basic written information about interacting with participants who have ADRD.
- In addition to the information provided, newly-hired adult day care center personnel who are expected to, or whose responsibilities require them to, have direct contact with participants who have ADRD must complete initial training of at least one hour within the first three months after beginning employment. The training must include an overview of dementias and must provide instruction in basic skills for communicating with persons who have dementia.
- In addition to the previous requirements, an employee who will be providing direct care to a participant who has ADRD must complete an additional three hours of training within nine months after beginning employment. This training must include, but is not limited to, the management of problem behaviors, information about promoting the participant's independence in activities of daily living, and instruction in skills for working with families and caregivers.
- For certified nursing assistants, the required four hours of training is part of the total hours of training required annually.
- For a health care practitioner as defined in s. 456.001, F.S., continuing education hours taken as required by that practitioner's licensing board are counted toward the total of four hours.
- For an employee who is a licensed health care practitioner as defined in s. 456.001, F.S., training that is sanctioned by that practitioner's licensing board is considered to be approved by the DOEA.
- The DOEA or its designee must approve the one-hour and three-hour training provided to employees and direct caregivers under this section of statute. The DOEA must consider for approval training offered in a variety of formats. The DOEA must keep a list of current providers who are approved to provide the one-hour and three-hour training. The DOEA must adopt rules to establish standards for the employees who are subject to this training, for the trainers, and for the training required in this section of statute.
- Upon completing any training described in the section, the employee or direct caregiver must be issued a certificate that includes the name of the training provider, the topic covered, and

⁷ See s. 429.75, F.S., and Fla. Admin. Code R. 59A-37.007 (2020).

the date and signature of the training provider. The certificate is evidence of completion of training in the identified topic, and the employee or direct caregiver is not required to repeat training in that topic if the employee or direct caregiver changes employment to a different adult day care center or to an assisted living facility, nursing home, home health agency, or hospice. The direct caregiver must comply with other applicable continuing education requirements.

Current Administration of ADRD Training

The DOEA has authority for administering the existing ADRD training⁸ and currently does so through a contract with the University of South Florida (USF).⁹ USF, through its Training Academy on Aging, reviews and approves ADRD Training Providers and Training Curriculum Programs for the DOEA. The mission of the ADRD training program is to improve the care of individuals with ADRDs who receive services from nursing homes, assisted living facilities, home health agencies, adult day care centers, and hospice care facilities. The ADRD training program is designed to ensure that agency and facility staff members who have regular contact with or provide direct care to, persons with ADRD receive the relevant ADRD training.¹⁰

III. Effect of Proposed Changes:

Sections 1 and 2 of CS/CS/SB 634, which may be cited as the “Florida Alzheimer’s Disease and Dementia Training Act”, creates s. 430.5025, F.S., to establish universal ADRD training requirements for nursing homes, home health agencies, hospice providers, ALFs, and adult day care centers with limited exception. The bill defines the following terms:

- “Department” means the Department of Elderly Affairs.¹¹
- “Direct care worker” means an individual who, as part of his or her employment duties, provides or is expected to provide direct contact assistance with personal care or activities of daily living to clients, patients, or residents of any facility licensed under part II, part III, or part IV of ch. 400, F.S., or part I or part III of ch. 429, F.S.
- “Employee” means any staff member, contracted staff, or independent contractor hired or referred by a licensee who is required to have a level 2 background screening as required by s. 408.809(1)(e). The term includes, but is not limited to, direct care workers; staff responsible for housekeeping, the front desk, maintenance, and other administrative functions; and companions or homemakers.
- “Licensee” means a person or an entity licensed under part II, part III, or part IV of ch. 400, F.S., or ch. 429, F.S.

The bill requires that, as a condition of licensure, each licensee must provide one hour of dementia-related training to each of its employees within 30 days after their employment begins, or within three months after the training is developed or approved by the DOEA for employees

⁸ Fla. Admin. Code R. 58A-5.0194 (2020).

⁹ Contract XQ092, effective July 1, 2020, and AHCA Agreement AA412, effective July 21, 2020, between Department of Elder Affairs, USF Board of Trustees, and the Agency for Health Care Administration (Agency).

¹⁰ Department of Elder Affairs, *Senate Bill 634 Fiscal Analysis* (February 2, 2021) (on file with the Senate Committee on Health Policy).

¹¹ Also known as the Department of Elder Affairs (DOEA).

who are hired on or before the effective date. The training must include methods for interacting with persons with ADRD and for identifying warning signs of dementia.

Any employee who is a direct care worker, as defined, must receive at least three hours of additional training within the first four months of employment, or within six months after the training is developed or approved by the DOEA for employees who are hired on or before the effective date. The three hours of training must include, but need not be limited to, an overview of ADRDs and person-centered care, assessment and care planning, activities of daily living, and dementia-related behaviors and communication for clients, patients, and residents with ADRD. Except for direct care workers of hospice providers, each such employee must also receive at least two hours of continuing education, approved by the DOEA, every two years on the above topics and any related changes in state or federal law. The continuing education counts toward a certified nursing assistant's annual training requirements, and may count toward core training requirements under s. 429.52, F.S.

If the licensee advertises that it provides special care for individuals with ADRD, the licensee must require its direct care workers to complete four additional hours of initial training within four months after employment begins with a curriculum developed or approved by the DOEA. This training will count toward a certified nursing assistant's annual training requirements. This training must count towards a certified nursing assistant's annual training requirements.

If the employee is a health care practitioner, as defined in 456.001, F.S., the employee may count his or her continuing education hours for licensure to satisfy the three-hour and four-hour training requirements if his or her continuing education covers the required topics and the hours are approved by the DOEA.

The DOEA or its designee is required to develop or approve the courses that licensees may use to satisfy the training requirements in the bill by January 1, 2022, and the approved courses must be in a variety of formats, including but not limited to, Internet-based training, videos, teleconferencing, and classroom instruction. The DOEA or its designee must develop a process for registering training providers and maintaining a list of those providers approved to provide training required under the bill. The process must consider training providers that are already approved and must include a method to verify that all training providers are actively providing the required training. To be approved, a training provider must have at least two years of experience related to ADRD, gerontology, health care, or a related field. The DOEA or its designee must issue each approved training provider a unique registration identifier.

If an employee or a direct care worker completes a training, the training provider must issue the employee or direct care worker a certificate that includes the training provider's name and unique identifier, the topic covered in the training, the date of completion, and the signature of the training provider. The certificate is evidence of completion of the training in the identified topic, and the employee or direct care worker is not required to repeat training in that topic if he or she changes employment to a different licensee, but he or she must comply with any applicable continuing education requirements.

Sections 7 and 8 amend ss. 429.52 and 429.83, F.S., to require all adult family-care homes and ALFs to provide ADRD staff training pursuant to the requirements established in the bill.

Currently, no adult family-care homes and only ALFs who advertise they provide special care for patients with ADRD are required to provide such training.

Sections 3 through 6 and section 9 amend ss. 400.1755, 400.4785, 400.6045, 429.178, and 429.917, F.S., respectively, to repeal the individual ADRD training requirements in the licensure statutes for nursing homes, home health agencies, hospice providers, ALFs, and adult day care centers in favor of the uniform training requirements established by the bill.

The effective date of the bill is October 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

CS/CS/SB 634 may have an indeterminate negative fiscal impact on a facility required to provide ADRD training by the bill if such training is more extensive than what is required to be provided by the facility under current law.

C. Government Sector Impact:

The DOEA reports that the bill does not have any fiscal impact to local or state government.¹²

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 400.1755, 400.4785, 400.6045, 429.178, 429.52, 429.83, and 429.917.

This bill creates section 430.5025 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS/CS by Children, Families, and Elder Affairs on March 30, 2021:

The committee substitute:

- Provides for the DOEA to develop or approve the training courses required under a new s. 430.5025, F.S., by January 1, 2022;
- Modifies the number of hours and reporting cycle for continuing education of direct care workers, except for direct care workers in hospice providers licensed under part IV of ch. 400, F.S.;
- Provides for employees who were hired on or before the effective date of the bill to complete mandatory training within specified time periods and conditions;
- Provides that training required under s. 430.5025, F.S., may be counted toward other training requirements in certain circumstances;
- Permits the DOEA or its designee to approve any existing training course or curriculum that is being used by licensees if it meets specified criteria;
- Requires the process the DOEA must develop for registering training providers to consider training providers who are already approved and include a method to verify that they are actively providing the required training;
- Removes the requirement for the training provider to develop an assessment that measures an employee's or a direct care worker's understand of the training topic, and their requirement to pass such assessment;

¹² The DOEA, *Agency Analysis for SB 634*, p. 4, February 11, 2021 (on file with Senate Committee on Children, Families, and Elder Affairs).

- Clarifies that the licensee must keep a copy of the employee’s training certificate in the employee’s personnel records and that the employee is not required to repeat the 1-hour training course upon changing employment if specified conditions are met;
- Reorganizes some of the provisions, modifies the definition of “employee”, and clarifies the definitions of “direct care worker” and “licensee” under s. 430.5205, F.S.;
- Amends ss. 400.1755, 400.4785, 400.6045, 429.178, 429.917, F.S., removing facility specific training requirements from these sections and cross-referencing the new training established in s. 430.5025, F.S.;
- Amends ss. 429.52 and 429.83, F.S., requiring these facility types to comply with the training requirements established in s. 430.5025, F.S.; and
- Amends the effective date of the bill from July 1, 2021 to October 1, 2021.

CS by Health Policy on March 10, 2021:

The CS adds adult family-care homes to the list of providers who are required to comply with the ADRD training requirements established by the bill and removes the authority for the DOEA to establish a uniform curriculum for ADRD training.

B. Amendments:

None.