

1                                   A bill to be entitled  
2           An act relating to assisted care communities; amending  
3           s. 409.908, F.S.; authorizing the Agency for Health  
4           Care Administration to reimburse adult day care  
5           services on a fee-for-service basis under the Medicaid  
6           program; amending s. 429.41, F.S.; specifying  
7           requirements for certain standards for assisted living  
8           facilities the agency is required to adopt by rule;  
9           creating s. 429.932, F.S.; providing a purpose;  
10          requiring operators of adult day care centers to  
11          annually complete specified continuing education;  
12          providing requirements for the content and approval of  
13          such continuing education courses; authorizing  
14          approved courses to be offered in person and online;  
15          providing requirements for courses completed online;  
16          providing additional methods to satisfy the continuing  
17          education requirements; providing that compliance with  
18          the continuing education requirements is a condition  
19          precedent for licensure; authorizing the Department of  
20          Elderly Affairs to grant an extension, not to exceed 1  
21          year, for completion of the continuing education under  
22          certain circumstances; requiring persons or entities  
23          offering continuing education courses to submit  
24          certain information to the department within a  
25          specified timeframe; providing applicability;

26 | authorizing certain operators to request a waiver from  
27 | the continuing education requirements; prohibiting the  
28 | department from renewing the license of an adult day  
29 | care center under certain circumstances; providing an  
30 | exception; providing an effective date.

31 |  
32 | Be It Enacted by the Legislature of the State of Florida:  
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34 | Section 1. Present paragraphs (a) through (u) of  
35 | subsection (3) of section 409.908, Florida Statutes, are  
36 | redesignated as paragraphs (b) through (v), respectively, a new  
37 | paragraph (a) is added to that subsection, and subsection (8) of  
38 | that section is amended, to read:

39 | 409.908 Reimbursement of Medicaid providers.—Subject to  
40 | specific appropriations, the agency shall reimburse Medicaid  
41 | providers, in accordance with state and federal law, according  
42 | to methodologies set forth in the rules of the agency and in  
43 | policy manuals and handbooks incorporated by reference therein.  
44 | These methodologies may include fee schedules, reimbursement  
45 | methods based on cost reporting, negotiated fees, competitive  
46 | bidding pursuant to s. 287.057, and other mechanisms the agency  
47 | considers efficient and effective for purchasing services or  
48 | goods on behalf of recipients. If a provider is reimbursed based  
49 | on cost reporting and submits a cost report late and that cost  
50 | report would have been used to set a lower reimbursement rate

51 for a rate semester, then the provider's rate for that semester  
52 shall be retroactively calculated using the new cost report, and  
53 full payment at the recalculated rate shall be effected  
54 retroactively. Medicare-granted extensions for filing cost  
55 reports, if applicable, shall also apply to Medicaid cost  
56 reports. Payment for Medicaid compensable services made on  
57 behalf of Medicaid-eligible persons is subject to the  
58 availability of moneys and any limitations or directions  
59 provided for in the General Appropriations Act or chapter 216.  
60 Further, nothing in this section shall be construed to prevent  
61 or limit the agency from adjusting fees, reimbursement rates,  
62 lengths of stay, number of visits, or number of services, or  
63 making any other adjustments necessary to comply with the  
64 availability of moneys and any limitations or directions  
65 provided for in the General Appropriations Act, provided the  
66 adjustment is consistent with legislative intent.

67 (3) Subject to any limitations or directions provided for  
68 in the General Appropriations Act, the following Medicaid  
69 services and goods may be reimbursed on a fee-for-service basis.  
70 For each allowable service or goods furnished in accordance with  
71 Medicaid rules, policy manuals, handbooks, and state and federal  
72 law, the payment shall be the amount billed by the provider, the  
73 provider's usual and customary charge, or the maximum allowable  
74 fee established by the agency, whichever amount is less, with  
75 the exception of those services or goods for which the agency

76 makes payment using a methodology based on capitation rates,  
 77 average costs, or negotiated fees.

78 (a) Adult day care services.

79 (8) A provider of home-based or community-based services  
 80 rendered pursuant to a federally approved waiver shall be  
 81 reimbursed based on an established or negotiated rate for each  
 82 service, except that adult day care services shall be reimbursed  
 83 on a fee-for-service basis as provided in subsection (3). These  
 84 rates shall be established according to an analysis of the  
 85 expenditure history and prospective budget developed by each  
 86 contract provider participating in the waiver program, or under  
 87 any other methodology adopted by the agency and approved by the  
 88 Federal Government in accordance with the waiver. Privately  
 89 owned and operated community-based residential facilities which  
 90 meet agency requirements and which formerly received Medicaid  
 91 reimbursement for the optional intermediate care facility for  
 92 the intellectually disabled service may participate in the  
 93 developmental services waiver as part of a home-and-community-  
 94 based continuum of care for Medicaid recipients who receive  
 95 waiver services.

96 Section 2. Subsection (2) of section 429.41, Florida  
 97 Statutes, is amended to read:

98 429.41 Rules establishing standards.—

99 (2) In adopting any rules pursuant to this part, the  
 100 agency shall make distinct standards for facilities based upon

101 facility size; the types of care provided; the physical and  
102 mental capabilities and needs of residents; the type, frequency,  
103 and amount of services and care offered; and the staffing  
104 characteristics of the facility. Rules developed pursuant to  
105 this section may not restrict the use of shared staffing and  
106 shared programming in facilities that are part of retirement  
107 communities that provide multiple levels of care and otherwise  
108 meet the requirements of law and rule. If a continuing care  
109 facility licensed under chapter 651 or a retirement community  
110 offering multiple levels of care licenses a building or part of  
111 a building designated for independent living for assisted  
112 living, staffing requirements established in rule apply only to  
113 residents who receive personal, limited nursing, or extended  
114 congregate care services under this part. Such facilities shall  
115 retain a log listing the names and unit number for residents  
116 receiving these services. The log must be available to surveyors  
117 upon request. The agency shall adopt by rule separate and  
118 distinct standards for facilities with 16 or fewer beds and for  
119 facilities with 17 or more beds; however, minimum staffing  
120 standards for facilities with 6 or fewer beds may not exceed 168  
121 hours per week. The standards for facilities with 16 or fewer  
122 beds must be appropriate for a noninstitutional residential  
123 environment; however, the structure may not be more than two  
124 stories in height and all persons who cannot exit the facility  
125 unassisted in an emergency must reside on the first floor. The

126 | agency may make other distinctions among types of facilities as  
 127 | necessary to enforce this part. ~~When~~ Where appropriate, the  
 128 | agency shall offer alternate solutions for complying with  
 129 | established standards, based on distinctions made by the agency  
 130 | relative to the physical characteristics of facilities and the  
 131 | types of care offered.

132 |       Section 3. Section 429.932, Florida Statutes, is created  
 133 | to read:

134 |       429.932 Continuing education requirements.—

135 |       (1) The purpose of this section is to establish  
 136 | requirements and standards for continuing education courses for  
 137 | an operator handling the day-to-day operations of an adult day  
 138 | care center licensed under this part.

139 |       (2) In addition to any existing adult day care center  
 140 | staff training requirements required under this part or by  
 141 | department rule, each operator must complete at least 8 hours of  
 142 | continuing education each calendar year, which must include 1  
 143 | hour of training in each of the following topic areas:

144 |       (a) Compliance with requirements of the Agency for Health  
 145 | Care Administration.

146 |       (b) Alzheimer's disease and related disorders.

147 |       (c) State and local comprehensive emergency management  
 148 | plans.

149 |       (d) Anti-fraud laws and regulations.

150 |       (e) Nonemergency medical transportation.

151 (f) Daily management of facility operations.

152 (g) Staff compliance.

153 (h) The Health Insurance Portability and Accountability  
154 Act and related requirements.

155 (3) The continuing education courses must be developed and  
156 offered by the Florida Adult Day Services Association and  
157 approved by the department. Courses may also be provided by any  
158 other educational provider approved by the department.

159 (4) Approved courses may be offered in person or online.  
160 Upon completion of an online course, an operator must pass an  
161 online department-approved exam with a minimum score of 80  
162 percent or higher. An operator attending an in-person course is  
163 exempt from the exam requirement. An individual teaching an  
164 approved course or lecturing at an approved seminar and  
165 attending the entire course or seminar qualifies for the same  
166 number of classroom hours as would be granted to a person taking  
167 and successfully completing such course or seminar. Such credit  
168 is limited to the number of hours actually taught by the  
169 individual unless he or she attends the entire course or  
170 seminar.

171 (5) Compliance with the continuing education requirements  
172 of this section is a condition precedent to the issuance,  
173 continuation, reinstatement, or renewal of an operator's adult  
174 day care center license subject to this part. However, for good  
175 cause shown, the department may grant the operator an extension

176 of time, not to exceed 1 year, to complete the continuing  
177 education required under this section.

178 (6) Each person or entity offering a course for continuing  
179 education credit under this section must submit to the  
180 department, within 30 days after completion of the course, in a  
181 form satisfactory to the department or its designee, a roster  
182 including the adult day care license number and the name of the  
183 operator who successfully completed such course and is  
184 requesting credit.

185 (7) Except as otherwise provided in this section, this  
186 section applies to all operators handling the day-to-day  
187 operations of adult day care centers licensed under this part.  
188 Operators who are unable to comply with the continuing education  
189 requirements due to active duty in the military may submit a  
190 written request for a waiver to the department.

191 (8) Unless the operator has been granted an extension or a  
192 waiver by the department, the department may not renew the  
193 license of an adult day care center whose operator has failed to  
194 complete the continuing education required under this section  
195 until such time as the operator completes such continuing  
196 education.

197 Section 4. This act shall take effect July 1, 2023.