

1 A bill to be entitled
2 An act relating to memory care; amending s. 429.02,
3 F.S.; defining terms; amending s. 429.07, F.S.;
4 requiring licenses for assisted living facilities that
5 provide memory care services; making technical
6 changes; creating s. 429.076, F.S.; requiring an
7 assisted living facility that serves memory care
8 residents or holds itself out as providing memory care
9 services to obtain a memory care services license;
10 providing an exception; requiring an assisted living
11 facility to maintain certain licensure and meet
12 certain requirements in order to obtain a memory care
13 services license; requiring the Agency for Health Care
14 Administration to adopt rules governing memory care
15 services licenses by a specified date; specifying
16 requirements for such rules; requiring an assisted
17 living facility licensed on or after the effective
18 date of such rules to obtain a memory care services
19 license to carry out certain functions; requiring an
20 assisted living facility licensed before the effective
21 date of such rules to obtain a memory care services
22 license at the time such facility renews its
23 licensure; authorizing a facility that served memory
24 care residents without a memory care services license
25 prior to a specified date to continue to do so if

26 certain requirements are met; requiring a facility
27 without a memory care services license to meet
28 specified requirements if a memory care resident
29 decides to remain at the facility despite the lack of
30 such license; repealing ss. 429.177 and 429.178, F.S.,
31 relating to patients with Alzheimer's disease or other
32 related disorders and certain disclosures and special
33 care for persons with Alzheimer's disease or other
34 related disorders, respectively, upon the adoption of
35 certain rules; providing an effective date.

36
37 Be It Enacted by the Legislature of the State of Florida:

38
39 **Section 1. Present subsections (15) through (28) of**
40 **section 429.02, Florida Statutes, are redesignated as**
41 **subsections (17) through (30), respectively, new subsections**
42 **(15) and (16) are added to that section, and subsection (12) of**
43 **that section is amended, to read:**

44 429.02 Definitions.—When used in this part, the term:
45 (12) "Extended congregate care" means acts beyond those
46 authorized in subsection (20) ~~(18)~~ which may be performed
47 pursuant to part I of chapter 464 by persons licensed thereunder
48 while carrying out their professional duties, and other
49 supportive services that may be specified by rule. The purpose
50 of such services is to enable residents to age in place in a

51 residential environment despite mental or physical limitations
52 that might otherwise disqualify them from residency in a
53 facility licensed under this part.

54 (15) "Memory care resident" means a person who suffers
55 from Alzheimer's disease or a related dementia who is a resident
56 of an assisted living facility that claims or otherwise
57 represents that it provides specialized care, services, or
58 activities specifically to support such resident's Alzheimer's
59 disease or related dementia, irrespective of whether such care,
60 services, or activities were listed in the resident's contract.

61 (16) "Memory care services" means specific specialized or
62 focused care, services, or activities an assisted living
63 facility agrees to provide to a memory care resident to support
64 his or her Alzheimer's disease or related dementia. Such
65 services do not include services, care, or activities provided
66 by the assisted living facility as optional supportive services
67 that are available to all residents of the facility.

68 **Section 2. Subsection (3) of section 429.07, Florida**
69 **Statutes, is amended to read:**

70 429.07 License required; fee.—

71 (3) In addition to the requirements of s. 408.806, each
72 license granted by the agency must state the type of care for
73 which the license is granted. Licenses shall be issued for one
74 or more of the following categories of care: standard, extended
75 congregate care, limited nursing services, ~~or~~ limited mental

76 | health, or memory care services.

77 | (a) A standard license shall be issued to facilities
78 | providing one or more of the personal services identified in s.
79 | 429.02. Such facilities may also employ or contract with a
80 | person licensed under part I of chapter 464 to administer
81 | medications and perform other tasks as specified in s. 429.255.

82 | (b) An extended congregate care license shall be issued to
83 | each facility that has been licensed as an assisted living
84 | facility for 2 or more years and that provides services,
85 | directly or through contract, beyond those authorized in
86 | paragraph (a), including services performed by persons licensed
87 | under part I of chapter 464 and supportive services, as defined
88 | by rule, to persons who would otherwise be disqualified from
89 | continued residence in a facility licensed under this part. An
90 | extended congregate care license may be issued to a facility
91 | that has a provisional extended congregate care license and
92 | meets the requirements for licensure under subparagraph 2. The
93 | primary purpose of extended congregate care services is to allow
94 | residents the option of remaining in a familiar setting from
95 | which they would otherwise be disqualified for continued
96 | residency as they become more impaired. A facility licensed to
97 | provide extended congregate care services may also admit an
98 | individual who exceeds the admission criteria for a facility
99 | with a standard license, if he or she is determined appropriate
100 | for admission to the extended congregate care facility.

101 1. In order for extended congregate care services to be
102 provided, the agency must first determine that all requirements
103 established in law and rule are met and must specifically
104 designate, on the facility's license, that such services may be
105 provided and whether the designation applies to all or part of
106 the facility. This designation may be made at the time of
107 initial licensure or relicensure, or upon request in writing by
108 a licensee under this part and part II of chapter 408. The
109 notification of approval or the denial of the request shall be
110 made in accordance with part II of chapter 408. Each existing
111 facility that qualifies to provide extended congregate care
112 services must have maintained a standard license and may not
113 have been subject to administrative sanctions during the
114 previous 2 years, or since initial licensure if the facility has
115 been licensed for less than 2 years, for any of the following
116 reasons:

- 117 a. A class I or class II violation;
- 118 b. Three or more repeat or recurring class III violations
119 of identical or similar resident care standards from which a
120 pattern of noncompliance is found by the agency;
- 121 c. Three or more class III violations that were not
122 corrected in accordance with the corrective action plan approved
123 by the agency;
- 124 d. Violation of resident care standards which results in
125 requiring the facility to employ the services of a consultant

126 pharmacist or consultant dietitian;

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

131 f. Imposition of a moratorium pursuant to this part or
132 part II of chapter 408 or initiation of injunctive proceedings.
133

134 The agency may deny or revoke a facility's extended congregate
135 care license for not meeting the criteria for an extended
136 congregate care license as provided in this subparagraph.

137 2. If an assisted living facility has been licensed for
138 less than 2 years, the initial extended congregate care license
139 must be provisional and may not exceed 6 months. The licensee
140 shall notify the agency, in writing, when it has admitted at
141 least one extended congregate care resident, after which an
142 unannounced inspection shall be made to determine compliance
143 with the requirements of an extended congregate care license. A
144 licensee with a provisional extended congregate care license
145 which demonstrates compliance with all the requirements of an
146 extended congregate care license during the inspection shall be
147 issued an extended congregate care license. In addition to
148 sanctions authorized under this part, if violations are found
149 during the inspection and the licensee fails to demonstrate
150 compliance with all assisted living facility requirements during

151 a follow-up ~~followup~~ inspection, the licensee shall immediately
152 suspend extended congregate care services, and the provisional
153 extended congregate care license expires. The agency may extend
154 the provisional license for not more than 1 month in order to
155 complete a follow-up ~~followup~~ visit.

156 3. A facility that is licensed to provide extended
157 congregate care services shall maintain a written progress
158 report on each person who receives such nursing services from
159 the facility's staff which describes the type, amount, duration,
160 scope, and outcome of services that are rendered and the general
161 status of the resident's health. A registered nurse, or
162 appropriate designee, representing the agency shall visit the
163 facility at least twice a year to monitor residents who are
164 receiving extended congregate care services and to determine if
165 the facility is in compliance with this part, part II of chapter
166 408, and relevant rules. One of the visits may be in conjunction
167 with the regular survey. The monitoring visits may be provided
168 through contractual arrangements with appropriate community
169 agencies. A registered nurse shall serve as part of the team
170 that inspects the facility. The agency may waive one of the
171 required yearly monitoring visits for a facility that has:

172 a. Held an extended congregate care license for at least
173 24 months;

174 b. No class I or class II violations and no uncorrected
175 class III violations; and

176 c. No ombudsman council complaints that resulted in a
177 citation for licensure.

178 4. A facility that is licensed to provide extended
179 congregate care services must:

180 a. Demonstrate the capability to meet unanticipated
181 resident service needs.

182 b. Offer a physical environment that promotes a homelike
183 setting, provides for resident privacy, promotes resident
184 independence, and allows sufficient congregate space as defined
185 by rule.

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

189 d. Adopt and follow policies and procedures that maximize
190 resident independence, dignity, choice, and decisionmaking to
191 permit residents to age in place, so that moves due to changes
192 in functional status are minimized or avoided.

193 e. Allow residents or, if applicable, a resident's
194 representative, designee, surrogate, guardian, or attorney in
195 fact to make a variety of personal choices, participate in
196 developing service plans, and share responsibility in
197 decisionmaking.

198 f. Implement the concept of managed risk.

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

201 h. In addition to the training mandated in s. 429.52,
202 provide specialized training as defined by rule for facility
203 staff.

204 5. A facility that is licensed to provide extended
205 congregate care services is exempt from the criteria for
206 continued residency set forth in rules adopted under s. 429.41.
207 A licensed facility must adopt its own requirements within
208 guidelines for continued residency set forth by rule. However,
209 the facility may not serve residents who require 24-hour nursing
210 supervision. A licensed facility that provides extended
211 congregate care services must also provide each resident with a
212 written copy of facility policies governing admission and
213 retention.

214 6. Before the admission of an individual to a facility
215 licensed to provide extended congregate care services, the
216 individual must undergo a medical examination as provided in s.
217 429.26(5) and the facility must develop a preliminary service
218 plan for the individual.

219 7. If a facility can no longer provide or arrange for
220 services in accordance with the resident's service plan and
221 needs and the facility's policy, the facility must make
222 arrangements for relocating the person in accordance with s.
223 429.28(1)(k).

224 (c) A limited nursing services license shall be issued to
225 a facility that provides services beyond those authorized in

226 paragraph (a) and as specified in this paragraph.

227 1. In order for limited nursing services to be provided in
228 a facility licensed under this part, the agency must first
229 determine that all requirements established in law and rule are
230 met and must specifically designate, on the facility's license,
231 that such services may be provided. This designation may be made
232 at the time of initial licensure or licensure renewal, or upon
233 request in writing by a licensee under this part and part II of
234 chapter 408. Notification of approval or denial of such request
235 shall be made in accordance with part II of chapter 408. An
236 existing facility that qualifies to provide limited nursing
237 services must have maintained a standard license and may not
238 have been subject to administrative sanctions that affect the
239 health, safety, and welfare of residents for the previous 2
240 years or since initial licensure if the facility has been
241 licensed for less than 2 years.

242 2. A facility that is licensed to provide limited nursing
243 services shall maintain a written progress report on each person
244 who receives such nursing services from the facility's staff.
245 The report must describe the type, amount, duration, scope, and
246 outcome of services that are rendered and the general status of
247 the resident's health. A registered nurse representing the
248 agency shall visit the facility at least annually to monitor
249 residents who are receiving limited nursing services and to
250 determine if the facility is in compliance with applicable

provisions of this part, part II of chapter 408, and related rules. The monitoring visits may be provided through contractual arrangements with appropriate community agencies. A registered nurse shall also serve as part of the team that inspects such facility. Visits may be in conjunction with other agency inspections. The agency may waive the required yearly monitoring visit for a facility that has:

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

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

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

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

Section 3. Section 429.076, Florida Statutes, is created to read:

429.076 Memory care services license.—An assisted living facility that serves one or more memory care residents, or that advertises or otherwise holds itself out as providing memory

276 care services, must obtain a memory care services license
277 pursuant to subsection (3) or subsection (4), as applicable. A
278 facility is not required to obtain a memory care services
279 license if the facility solely provides optional supportive
280 services for residents with Alzheimer's disease and related
281 dementias which are available to all residents of the facility
282 so long as the facility complies with agency rules on
283 advertising pursuant to paragraph (2)(h).

284 (1) To obtain a memory care services license, an assisted
285 living facility must maintain a standard assisted living
286 facility license and meet any additional minimum requirements
287 adopted by rule.

288 (2) By October 1, 2026, the agency shall adopt rules to
289 provide minimum standards for memory care services licenses.
290 Such rules must include, but are not limited to:

291 (a) Policies and procedures for providing memory care
292 services.

293 (b) Standardized admittance criteria for memory care
294 residents.

295 (c) The minimum level of care, services, and activities
296 that must be provided to memory care residents.

297 (d) Minimum training requirements for staff at a facility
298 with a memory care services license, which must meet or exceed
299 training requirements established in s. 430.5025.

300 (e) Safety requirements specific to memory care residents,

301 including, but not limited to, requiring a memory care services
302 licensee to maintain at least one awake staff member to be on
303 duty at all hours.

304 (f) Physical plant requirements for a facility, or parts
305 of a facility as specified by the licensee, serving memory care
306 residents.

307 (g) Requirements for contracts with memory care residents
308 which, in addition to the requirements established by s. 429.24,
309 must require a memory care services licensee to specify the
310 memory care services that will be provided to the memory care
311 resident.

312 (h) Reasonable limitations on how an assisted living
313 facility may advertise or hold itself out as providing optional
314 supportive services for residents with Alzheimer's disease and
315 related dementias without obtaining a memory care services
316 license.

317 (3) An assisted living facility licensed on or after the
318 effective date of the rules required by subsection (2) must
319 obtain a memory care services license to provide memory care
320 services, serve memory care residents, or advertise or hold
321 itself out as providing memory care services or otherwise
322 serving memory care residents.

323 (4) Except as provided in subsection (5), an assisted
324 living facility licensed before the effective date of the rules
325 required by subsection (2) must obtain a memory care services

license when such facility renews its license in order to begin or continue to provide memory care services, serve memory care residents, or advertise or hold itself out as providing such services or serving such residents.

(5)(a) A facility that serves one or more memory care residents accepted before the effective date of the rules required by subsection (2) may continue to serve such memory care residents and provide memory care services to such residents without obtaining a memory care services license if the facility:

1. Demonstrates to the agency that it is unable to reasonably obtain such license;

2. Notifies any memory care residents the facility serves and their caregivers, if applicable, that:

a. The facility is required to obtain a memory care services license;

b. The facility is unable to obtain such license; and

c. The memory care resident may relocate to a facility with a memory care services license, if desired.

3. Upon request, assists memory care residents or, if applicable, their caregivers with finding a suitable alternate facility.

4. No longer accepts any new memory care residents without first obtaining a memory care services license.

(b) If, after receiving the notice required by

351 subparagraph (a)2., a memory care resident or, if applicable,
352 his or her caregiver decides that the resident will remain at
353 the facility, the facility must:

354 1. Amend the resident's contract to include the memory
355 care services that are being provided to the resident;

356 2. Maintain records pertaining to when and how such
357 services were provided to the resident; and

358 3. Provide such records to the resident, his or her
359 caregivers, or the agency upon request.

360 **Section 4.** Effective upon the adoption of rules
361 establishing minimum standards for memory care services
362 licensees pursuant to s. 429.076, Florida Statutes, ss. 429.177
363 and 429.178, Florida Statutes, are repealed.

364 **Section 5.** This act shall take effect upon becoming a law.