

By the Committees on Fiscal Policy; and Health Policy; and  
Senator Burton

594-03163-26

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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 that a memory care license  
14      be renewed at the same time as the assisted living  
15      facility's standard license; requiring the Agency for  
16      Health Care Administration to adopt rules governing  
17      memory care services licenses by a specified date;  
18      specifying requirements for such rules; requiring an  
19      assisted living facility licensed on or after the  
20      effective date of such rules to obtain a memory care  
21      services license to carry out certain functions;  
22      requiring an assisted living facility licensed before  
23      the effective date of such rules to obtain a memory  
24      care services license within a specified timeframe  
25      after the effective date of such rules; authorizing a  
26      facility that served memory care residents without a  
27      memory care services license before a specified date  
28      to continue to do so if certain requirements are met;  
29      requiring a facility without a memory care services

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30 license to meet specified requirements if a memory  
31 care resident decides to remain at the facility  
32 despite the absence of such license; providing  
33 construction; amending s. 492.17, F.S.; providing that  
34 a memory care license expires at the same time as the  
35 facility's standard license; creating s. 430.71, F.S.;  
36 providing the purpose of the Florida Alzheimer's  
37 Center of Excellence; defining terms; creating the  
38 center within the Department of Elderly Affairs;  
39 authorizing the center to contract for services;  
40 providing duties of the center; requiring the center  
41 to submit an annual report to the Governor and the  
42 Legislature by a specified date; specifying  
43 requirements for the report; requiring the center to  
44 work with specified agencies, committees, initiatives,  
45 clinics, task forces, and other entities to ensure the  
46 full use of the state's infrastructure; specifying  
47 eligibility requirements for services; authorizing the  
48 center to provide assistance to qualified persons,  
49 subject to the availability of funds and resources;  
50 repealing ss. 429.177 and 429.178, F.S., relating to  
51 patients with Alzheimer's disease or other related  
52 disorders and certain disclosures and special care for  
53 persons with Alzheimer's disease or other related  
54 disorders, respectively, upon the adoption of certain  
55 rules; providing an effective date.

56  
57 Be It Enacted by the Legislature of the State of Florida:  
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59 Section 1. Present subsections (15) through (28) of section  
60 429.02, Florida Statutes, are redesignated as subsections (17)  
61 through (30), respectively, new subsections (15) and (16) are  
62 added to that section, and subsection (12) of that section is  
63 amended, to read:

64 429.02 Definitions.—When used in this part, the term:

65 (12) "Extended congregate care" means acts beyond those  
66 authorized in subsection (20) ~~(18)~~ which may be performed  
67 pursuant to part I of chapter 464 by persons licensed thereunder  
68 while carrying out their professional duties, and other  
69 supportive services that may be specified by rule. The purpose  
70 of such services is to enable residents to age in place in a  
71 residential environment despite mental or physical limitations  
72 that might otherwise disqualify them from residency in a  
73 facility licensed under this part.

74 (15) "Memory care resident" means a person who suffers from  
75 Alzheimer's disease or a related dementia who is a resident of  
76 an assisted living facility that claims or otherwise represents  
77 that it provides specialized care, services, or activities  
78 specifically to support such resident's Alzheimer's disease or  
79 related dementia, irrespective of whether such care, services,  
80 or activities were listed in the resident's contract.

81 (16) "Memory care services" means specific specialized or  
82 focused care, services, or activities an assisted living  
83 facility agrees to provide to a memory care resident to support  
84 his or her Alzheimer's disease or related dementia. Such  
85 services do not include services, care, or activities provided  
86 by the assisted living facility as supportive services, as  
87 defined in subsection (29), that are optional and available to

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88 all residents of the facility.

89 Section 2. Subsection (3) of section 429.07, Florida  
90 Statutes, is amended to read:

91 429.07 License required; fee.—

92 (3) In addition to the requirements of s. 408.806, each  
93 license granted by the agency must state the type of care for  
94 which the license is granted. Licenses shall be issued for one  
95 or more of the following categories of care: standard, extended  
96 congregate care, limited nursing services, ~~or~~ limited mental  
97 health, or memory care services.

98 (a) A standard license shall be issued to facilities  
99 providing one or more of the personal services identified in s.  
100 429.02. Such facilities may also employ or contract with a  
101 person licensed under part I of chapter 464 to administer  
102 medications and perform other tasks as specified in s. 429.255.

103 (b) An extended congregate care license shall be issued to  
104 each facility that has been licensed as an assisted living  
105 facility for 2 or more years and that provides services,  
106 directly or through contract, beyond those authorized in  
107 paragraph (a), including services performed by persons licensed  
108 under part I of chapter 464 and supportive services, as defined  
109 by rule, to persons who would otherwise be disqualified from  
110 continued residence in a facility licensed under this part. An  
111 extended congregate care license may be issued to a facility  
112 that has a provisional extended congregate care license and  
113 meets the requirements for licensure under subparagraph 2. The  
114 primary purpose of extended congregate care services is to allow  
115 residents the option of remaining in a familiar setting from  
116 which they would otherwise be disqualified for continued

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117 residency as they become more impaired. A facility licensed to  
118 provide extended congregate care services may also admit an  
119 individual who exceeds the admission criteria for a facility  
120 with a standard license, if he or she is determined appropriate  
121 for admission to the extended congregate care facility.

122 1. In order for extended congregate care services to be  
123 provided, the agency must first determine that all requirements  
124 established in law and rule are met and must specifically  
125 designate, on the facility's license, that such services may be  
126 provided and whether the designation applies to all or part of  
127 the facility. This designation may be made at the time of  
128 initial licensure or relicensure, or upon request in writing by  
129 a licensee under this part and part II of chapter 408. The  
130 notification of approval or the denial of the request shall be  
131 made in accordance with part II of chapter 408. Each existing  
132 facility that qualifies to provide extended congregate care  
133 services must have maintained a standard license and may not  
134 have been subject to administrative sanctions during the  
135 previous 2 years, or since initial licensure if the facility has  
136 been licensed for less than 2 years, for any of the following  
137 reasons:

138 a. A class I or class II violation;

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

142 c. Three or more class III violations that were not  
143 corrected in accordance with the corrective action plan approved  
144 by the agency;

145 d. Violation of resident care standards which results in

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146 requiring the facility to employ the services of a consultant  
147 pharmacist or consultant dietitian;

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

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

154  
155 The agency may deny or revoke a facility's extended congregate  
156 care license for not meeting the criteria for an extended  
157 congregate care license as provided in this subparagraph.

158 2. If an assisted living facility has been licensed for  
159 less than 2 years, the initial extended congregate care license  
160 must be provisional and may not exceed 6 months. The licensee  
161 shall notify the agency, in writing, when it has admitted at  
162 least one extended congregate care resident, after which an  
163 unannounced inspection shall be made to determine compliance  
164 with the requirements of an extended congregate care license. A  
165 licensee with a provisional extended congregate care license  
166 which demonstrates compliance with all the requirements of an  
167 extended congregate care license during the inspection shall be  
168 issued an extended congregate care license. In addition to  
169 sanctions authorized under this part, if violations are found  
170 during the inspection and the licensee fails to demonstrate  
171 compliance with all assisted living facility requirements during  
172 a follow-up ~~followup~~ inspection, the licensee shall immediately  
173 suspend extended congregate care services, and the provisional  
174 extended congregate care license expires. The agency may extend

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175 the provisional license for not more than 1 month in order to  
176 complete a follow-up ~~followup~~ visit.

177 3. A facility that is licensed to provide extended  
178 congregate care services shall maintain a written progress  
179 report on each person who receives such nursing services from  
180 the facility's staff which describes the type, amount, duration,  
181 scope, and outcome of services that are rendered and the general  
182 status of the resident's health. A registered nurse, or  
183 appropriate designee, representing the agency shall visit the  
184 facility at least twice a year to monitor residents who are  
185 receiving extended congregate care services and to determine if  
186 the facility is in compliance with this part, part II of chapter  
187 408, and relevant rules. One of the visits may be in conjunction  
188 with the regular survey. The monitoring visits may be provided  
189 through contractual arrangements with appropriate community  
190 agencies. A registered nurse shall serve as part of the team  
191 that inspects the facility. The agency may waive one of the  
192 required yearly monitoring visits for a facility that has:

193 a. Held an extended congregate care license for at least 24  
194 months;

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

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

199 4. A facility that is licensed to provide extended  
200 congregate care services must:

201 a. Demonstrate the capability to meet unanticipated  
202 resident service needs.

203 b. Offer a physical environment that promotes a homelike

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204 setting, provides for resident privacy, promotes resident  
205 independence, and allows sufficient congregate space as defined  
206 by rule.

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

210 d. Adopt and follow policies and procedures that maximize  
211 resident independence, dignity, choice, and decisionmaking to  
212 permit residents to age in place, so that moves due to changes  
213 in functional status are minimized or avoided.

214 e. Allow residents or, if applicable, a resident's  
215 representative, designee, surrogate, guardian, or attorney in  
216 fact to make a variety of personal choices, participate in  
217 developing service plans, and share responsibility in  
218 decisionmaking.

219 f. Implement the concept of managed risk.

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

222 h. In addition to the training mandated in s. 429.52,  
223 provide specialized training as defined by rule for facility  
224 staff.

225 5. A facility that is licensed to provide extended  
226 congregate care services is exempt from the criteria for  
227 continued residency set forth in rules adopted under s. 429.41.  
228 A licensed facility must adopt its own requirements within  
229 guidelines for continued residency set forth by rule. However,  
230 the facility may not serve residents who require 24-hour nursing  
231 supervision. A licensed facility that provides extended  
232 congregate care services must also provide each resident with a

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233 written copy of facility policies governing admission and  
234 retention.

235 6. Before the admission of an individual to a facility  
236 licensed to provide extended congregate care services, the  
237 individual must undergo a medical examination as provided in s.  
238 429.26(5) and the facility must develop a preliminary service  
239 plan for the individual.

240 7. If a facility can no longer provide or arrange for  
241 services in accordance with the resident's service plan and  
242 needs and the facility's policy, the facility must make  
243 arrangements for relocating the person in accordance with s.  
244 429.28(1)(k).

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

248 1. In order for limited nursing services to be provided in  
249 a facility licensed under this part, the agency must first  
250 determine that all requirements established in law and rule are  
251 met and must specifically designate, on the facility's license,  
252 that such services may be provided. This designation may be made  
253 at the time of initial licensure or licensure renewal, or upon  
254 request in writing by a licensee under this part and part II of  
255 chapter 408. Notification of approval or denial of such request  
256 shall be made in accordance with part II of chapter 408. An  
257 existing facility that qualifies to provide limited nursing  
258 services must have maintained a standard license and may not  
259 have been subject to administrative sanctions that affect the  
260 health, safety, and welfare of residents for the previous 2  
261 years or since initial licensure if the facility has been

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262 licensed for less than 2 years.

263       2. A facility that is licensed to provide limited nursing  
264 services shall maintain a written progress report on each person  
265 who receives such nursing services from the facility's staff.  
266 The report must describe the type, amount, duration, scope, and  
267 outcome of services that are rendered and the general status of  
268 the resident's health. A registered nurse representing the  
269 agency shall visit the facility at least annually to monitor  
270 residents who are receiving limited nursing services and to  
271 determine if the facility is in compliance with applicable  
272 provisions of this part, part II of chapter 408, and related  
273 rules. The monitoring visits may be provided through contractual  
274 arrangements with appropriate community agencies. A registered  
275 nurse shall also serve as part of the team that inspects such  
276 facility. Visits may be in conjunction with other agency  
277 inspections. The agency may waive the required yearly monitoring  
278 visit for a facility that has:

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

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

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

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

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291 to provide extended congregate care services.

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

294 429.076 Memory care services license.—An assisted living  
295 facility that serves one or more memory care residents, or that  
296 advertises or otherwise holds itself out as providing memory  
297 care services, must obtain a memory care services license  
298 pursuant to subsection (3) or subsection (4), as applicable. A  
299 facility is not required to obtain a memory care services  
300 license if the facility solely provides supportive services, as  
301 defined in s. 429.02, for residents with Alzheimer’s disease and  
302 related dementias which are optional and available to all  
303 residents of the facility so long as the facility complies with  
304 agency rules on advertising pursuant to paragraph (2)(h).

305 (1) To obtain a memory care services license, an assisted  
306 living facility must maintain a standard assisted living  
307 facility license and meet any additional minimum requirements  
308 adopted by rule. A memory care services license must be renewed  
309 at the same time as the facility’s standard license.

310 (2) By June 1, 2027, the agency shall adopt rules to  
311 provide minimum standards for memory care services licenses.  
312 Such rules must include, but are not limited to:

313 (a) Policies and procedures for providing memory care  
314 services.

315 (b) Standardized admittance criteria for memory care  
316 residents.

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

319 (d) Minimum training requirements for staff at a facility

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320 with a memory care services license, which must meet or exceed  
321 training requirements established in s. 430.5025.

322 (e) Safety requirements specific to memory care residents,  
323 including, but not limited to, requiring a memory care services  
324 licensee to maintain at least one awake staff member to be on  
325 duty at all hours.

326 (f) Physical plant requirements for a facility, or parts of  
327 a facility as specified by the licensee, serving memory care  
328 residents.

329 (g) Requirements for contracts with memory care residents  
330 which, in addition to the requirements established by s. 429.24,  
331 must require a memory care services licensee to specify the  
332 memory care services that will be provided to the memory care  
333 resident.

334 (h) Specified terms or terminologies that a facility may  
335 not use in its advertising without obtaining a memory care  
336 services license. Such terms include, but are not limited to,  
337 memory care, memory care facility, memory care services, memory  
338 care residents, dementia care, dementia care facility,  
339 Alzheimer's care, and Alzheimer's care facility. A facility that  
340 is not licensed to provide memory care services may advertise  
341 the supportive services, as defined in s. 429.02, it provides  
342 for persons with Alzheimer's disease and related dementias so  
343 long as such advertisements do not use any terms or terminology  
344 prohibited by the agency's rules pursuant to this subsection,  
345 such advertisements do not make any claim that the facility  
346 provides memory care services, and the facility maintains a copy  
347 of such advertisements in its records. The agency shall examine  
348 all such advertisements in the facility's records as part of its

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349 licensure renewal procedure.

350 (i) Requirements that a facility must meet to continue to  
351 serve memory care residents without obtaining a memory care  
352 services license pursuant to subsection (5).

353 (3) An assisted living facility licensed on or after the  
354 effective date of the rules required by subsection (2) must  
355 obtain a memory care services license to provide memory care  
356 services, serve memory care residents, or advertise or hold  
357 itself out as providing memory care services or otherwise  
358 serving memory care residents.

359 (4) Except as provided in subsection (5), an assisted  
360 living facility licensed before the effective date of the rules  
361 required by subsection (2) must obtain a memory care services  
362 license within 6 months after the effective date of such rules  
363 in order to begin or continue to provide memory care services,  
364 serve memory care residents, or advertise or hold itself out as  
365 providing such services or serving such residents.

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

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

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

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

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378 b. The facility is unable to obtain such license; and  
 379 c. The memory care resident may relocate to a facility with  
 380 a memory care services license, if desired.

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

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

386 (b) If, after receiving the notice required by subparagraph  
 387 (a)2., a memory care resident or, if applicable, his or her  
 388 caregiver decides that the resident will remain at the facility,  
 389 the facility must:

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

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

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

396 (c) This subsection may not be construed to exempt a  
 397 facility from meeting any other requirements in law or rule as  
 398 applicable to the facility, including, but not limited to,  
 399 requirements related to the appropriateness of placements for  
 400 residents of the facility established in s. 429.26.

401 Section 4. Subsection (1) of section 429.17, Florida  
 402 Statutes, is amended to read:

403 429.17 Expiration of license; renewal; conditional  
 404 license.-

405 (1) Limited nursing, extended congregate care, ~~and~~ limited  
 406 mental health licenses, and memory care services shall expire at

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407 the same time as the facility's standard license, regardless of  
408 when issued.

409 Section 5. Section 430.71, Florida Statutes, is created to  
410 read:

411 430.71 Florida Alzheimer's Center of Excellence.-

412 (1) PURPOSE AND INTENT.-The purpose of this section is to  
413 assist and support persons with Alzheimer's disease or related  
414 dementias and their caregivers by connecting them with resources  
415 in their communities to address the following goals:

416 (a) To allow residents of this state living with  
417 Alzheimer's disease or related dementias to age in place.

418 (b) To empower family caregivers to improve their own well-  
419 being.

420 (2) DEFINITIONS.-As used in this section, the term:

421 (a) "Center" means the Florida Alzheimer's Center of  
422 Excellence.

423 (b) "Department" means the Department of Elderly Affairs.

424 (3) POWERS AND DUTIES.-

425 (a) There is created within the department the Florida  
426 Alzheimer's Center of Excellence, which shall assist in  
427 improving the quality of care for persons living with  
428 Alzheimer's disease or related dementias and improving the  
429 quality of life for family caregivers. The center may contract  
430 for services necessary to implement this section. The center  
431 shall do all of the following:

432 1. Conduct caregiver assessments to measure caregiver  
433 burden.

434 2. Create personalized plans that guide caregivers to  
435 community resources, empowering them with the skills, education,

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436 support, and planning necessary for effective caregiving,  
437 including addressing any medical, emotional, social, legal, or  
438 financial challenges experienced by the person with Alzheimer's  
439 disease or a related dementia.

440 3. Educate and assist caregivers with strategies for  
441 caregiving for someone with Alzheimer's disease or a related  
442 dementia and provide guidance on all aspects of home-based care,  
443 including home safety, physical and mental health, legal and  
444 financial preparedness, communication skills, and hands-on care  
445 techniques.

446 4. Provide online educational resources for caregivers.

447 5. Track outcomes, including, but not limited to, decreased  
448 hospitalizations, reduced emergency department visits, reduction  
449 in falls, and reduction in caregiver burnout.

450 6. By December 1 of each year, submit a report to the  
451 Governor, the President of the Senate, and the Speaker of the  
452 House of Representatives which addresses the number of families  
453 served, the types of services provided, and the outcomes  
454 achieved.

455 (b) The center shall work with area agencies on aging as  
456 defined in s. 430.203; the Alzheimer's Disease Advisory  
457 Committee established under s. 430.501; the Alzheimer's Disease  
458 Initiative established under ss. 430.501-430.504; the state-  
459 funded memory disorder clinics established under s. 430.502; the  
460 department's Dementia Care and Cure Initiative task forces;  
461 universities; hospitals; and other available community resources  
462 to ensure full use of the state's infrastructure.

463 (4) ELIGIBILITY FOR SERVICES.—

464 (a) To qualify for assistance from the center, an

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465 individual or a caregiver must meet all of the following  
466 criteria:

467 1. At least one person in the household is a caregiver for  
468 a person diagnosed with, or suspected to have, Alzheimer's  
469 disease or a related dementia.

470 2. The caregiver or the person diagnosed with, or suspected  
471 to have, Alzheimer's disease or a related dementia is a resident  
472 of this state.

473 3. The person seeking assistance has the goal of providing  
474 in-home care for the person diagnosed with, or suspected to  
475 have, Alzheimer's disease or a related dementia.

476 (b) If the person seeking assistance meets the criteria in  
477 paragraph (a), the center may provide assistance to the  
478 caregiving family, subject to the availability of funds and  
479 resources.

480 Section 6. Effective upon the adoption of rules  
481 establishing minimum standards for memory care services  
482 licensees pursuant to s. 429.076, Florida Statutes, ss. 429.177  
483 and 429.178, Florida Statutes, are repealed.

484 Section 7. This act shall take effect upon becoming a law.