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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; repealing ss. 429.177 and
36 429.178, F.S., relating to patients with Alzheimer's
37 disease or other related disorders and certain
38 disclosures and special care for persons with
39 Alzheimer's disease or other related disorders,
40 respectively, upon the adoption of certain rules;
41 providing an effective date.

42
43 Be It Enacted by the Legislature of the State of Florida:

44
45 Section 1. Present subsections (15) through (28) of section
46 429.02, Florida Statutes, are redesignated as subsections (17)
47 through (30), respectively, new subsections (15) and (16) are
48 added to that section, and subsection (12) of that section is
49 amended, to read:

50 429.02 Definitions.—When used in this part, the term:

51 (12) "Extended congregate care" means acts beyond those
52 authorized in subsection (20) ~~(18)~~ which may be performed
53 pursuant to part I of chapter 464 by persons licensed thereunder
54 while carrying out their professional duties, and other
55 supportive services that may be specified by rule. The purpose
56 of such services is to enable residents to age in place in a
57 residential environment despite mental or physical limitations
58 that might otherwise disqualify them from residency in a

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59 facility licensed under this part.

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

67 (16) "Memory care services" means specific specialized or
68 focused care, services, or activities an assisted living
69 facility agrees to provide to a memory care resident to support
70 his or her Alzheimer's disease or related dementia. Such
71 services do not include services, care, or activities provided
72 by the assisted living facility as supportive services, as
73 defined in subsection (29), that are optional and available to
74 all residents of the facility.

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

77 429.07 License required; fee.—

78 (3) In addition to the requirements of s. 408.806, each
79 license granted by the agency must state the type of care for
80 which the license is granted. Licenses shall be issued for one
81 or more of the following categories of care: standard, extended
82 congregate care, limited nursing services, ~~or~~ limited mental
83 health, or memory care services.

84 (a) A standard license shall be issued to facilities
85 providing one or more of the personal services identified in s.
86 429.02. Such facilities may also employ or contract with a
87 person licensed under part I of chapter 464 to administer

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88 medications and perform other tasks as specified in s. 429.255.

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

108 1. In order for extended congregate care services to be
109 provided, the agency must first determine that all requirements
110 established in law and rule are met and must specifically
111 designate, on the facility's license, that such services may be
112 provided and whether the designation applies to all or part of
113 the facility. This designation may be made at the time of
114 initial licensure or relicensure, or upon request in writing by
115 a licensee under this part and part II of chapter 408. The
116 notification of approval or the denial of the request shall be

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117 made in accordance with part II of chapter 408. Each existing
118 facility that qualifies to provide extended congregate care
119 services must have maintained a standard license and may not
120 have been subject to administrative sanctions during the
121 previous 2 years, or since initial licensure if the facility has
122 been licensed for less than 2 years, for any of the following
123 reasons:

- 124 a. A class I or class II violation;
- 125 b. Three or more repeat or recurring class III violations
126 of identical or similar resident care standards from which a
127 pattern of noncompliance is found by the agency;
- 128 c. Three or more class III violations that were not
129 corrected in accordance with the corrective action plan approved
130 by the agency;
- 131 d. Violation of resident care standards which results in
132 requiring the facility to employ the services of a consultant
133 pharmacist or consultant dietitian;
- 134 e. Denial, suspension, or revocation of a license for
135 another facility licensed under this part in which the applicant
136 for an extended congregate care license has at least 25 percent
137 ownership interest; or
- 138 f. Imposition of a moratorium pursuant to this part or part
139 II of chapter 408 or initiation of injunctive proceedings.

140
141 The agency may deny or revoke a facility's extended congregate
142 care license for not meeting the criteria for an extended
143 congregate care license as provided in this subparagraph.

144 2. If an assisted living facility has been licensed for
145 less than 2 years, the initial extended congregate care license

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146 must be provisional and may not exceed 6 months. The licensee
147 shall notify the agency, in writing, when it has admitted at
148 least one extended congregate care resident, after which an
149 unannounced inspection shall be made to determine compliance
150 with the requirements of an extended congregate care license. A
151 licensee with a provisional extended congregate care license
152 which demonstrates compliance with all the requirements of an
153 extended congregate care license during the inspection shall be
154 issued an extended congregate care license. In addition to
155 sanctions authorized under this part, if violations are found
156 during the inspection and the licensee fails to demonstrate
157 compliance with all assisted living facility requirements during
158 a follow-up ~~followup~~ inspection, the licensee shall immediately
159 suspend extended congregate care services, and the provisional
160 extended congregate care license expires. The agency may extend
161 the provisional license for not more than 1 month in order to
162 complete a follow-up ~~followup~~ visit.

163 3. A facility that is licensed to provide extended
164 congregate care services shall maintain a written progress
165 report on each person who receives such nursing services from
166 the facility's staff which describes the type, amount, duration,
167 scope, and outcome of services that are rendered and the general
168 status of the resident's health. A registered nurse, or
169 appropriate designee, representing the agency shall visit the
170 facility at least twice a year to monitor residents who are
171 receiving extended congregate care services and to determine if
172 the facility is in compliance with this part, part II of chapter
173 408, and relevant rules. One of the visits may be in conjunction
174 with the regular survey. The monitoring visits may be provided

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175 through contractual arrangements with appropriate community
176 agencies. A registered nurse shall serve as part of the team
177 that inspects the facility. The agency may waive one of the
178 required yearly monitoring visits for a facility that has:

- 179 a. Held an extended congregate care license for at least 24
180 months;
- 181 b. No class I or class II violations and no uncorrected
182 class III violations; and
- 183 c. No ombudsman council complaints that resulted in a
184 citation for licensure.

185 4. A facility that is licensed to provide extended
186 congregate care services must:

- 187 a. Demonstrate the capability to meet unanticipated
188 resident service needs.
- 189 b. Offer a physical environment that promotes a homelike
190 setting, provides for resident privacy, promotes resident
191 independence, and allows sufficient congregate space as defined
192 by rule.
- 193 c. Have sufficient staff available, taking into account the
194 physical plant and firesafety features of the building, to
195 assist with the evacuation of residents in an emergency.
- 196 d. Adopt and follow policies and procedures that maximize
197 resident independence, dignity, choice, and decisionmaking to
198 permit residents to age in place, so that moves due to changes
199 in functional status are minimized or avoided.
- 200 e. Allow residents or, if applicable, a resident's
201 representative, designee, surrogate, guardian, or attorney in
202 fact to make a variety of personal choices, participate in
203 developing service plans, and share responsibility in

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204 decisionmaking.

205 f. Implement the concept of managed risk.

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

208 h. In addition to the training mandated in s. 429.52,
209 provide specialized training as defined by rule for facility
210 staff.

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

221 6. Before the admission of an individual to a facility
222 licensed to provide extended congregate care services, the
223 individual must undergo a medical examination as provided in s.
224 429.26(5) and the facility must develop a preliminary service
225 plan for the individual.

226 7. If a facility can no longer provide or arrange for
227 services in accordance with the resident's service plan and
228 needs and the facility's policy, the facility must make
229 arrangements for relocating the person in accordance with s.
230 429.28(1)(k).

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

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

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

249 2. A facility that is licensed to provide limited nursing
250 services shall maintain a written progress report on each person
251 who receives such nursing services from the facility's staff.
252 The report must describe the type, amount, duration, scope, and
253 outcome of services that are rendered and the general status of
254 the resident's health. A registered nurse representing the
255 agency shall visit the facility at least annually to monitor
256 residents who are receiving limited nursing services and to
257 determine if the facility is in compliance with applicable
258 provisions of this part, part II of chapter 408, and related
259 rules. The monitoring visits may be provided through contractual
260 arrangements with appropriate community agencies. A registered
261 nurse shall also serve as part of the team that inspects such

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262 facility. Visits may be in conjunction with other agency
263 inspections. The agency may waive the required yearly monitoring
264 visit for a facility that has:

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

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

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

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

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

280 429.076 Memory care services license.—An assisted living
281 facility that serves one or more memory care residents, or that
282 advertises or otherwise holds itself out as providing memory
283 care services, must obtain a memory care services license
284 pursuant to subsection (3) or subsection (4), as applicable. A
285 facility is not required to obtain a memory care services
286 license if the facility solely provides supportive services, as
287 defined in s. 429.02, for residents with Alzheimer's disease and
288 related dementias which are optional and available to all
289 residents of the facility so long as the facility complies with
290 agency rules on advertising pursuant to paragraph (2)(h).

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291 (1) To obtain a memory care services license, an assisted
292 living facility must maintain a standard assisted living
293 facility license and meet any additional minimum requirements
294 adopted by rule. A memory care services license must be renewed
295 at the same time as the facility's standard license.

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

299 (a) Policies and procedures for providing memory care
300 services.

301 (b) Standardized admittance criteria for memory care
302 residents.

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

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

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

312 (f) Physical plant requirements for a facility, or parts of
313 a facility as specified by the licensee, serving memory care
314 residents.

315 (g) Requirements for contracts with memory care residents
316 which, in addition to the requirements established by s. 429.24,
317 must require a memory care services licensee to specify the
318 memory care services that will be provided to the memory care
319 resident.

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320 (h) Specified terms or terminologies that a facility may
321 not use in its advertising without obtaining a memory care
322 services license. Such terms include, but are not limited to,
323 memory care, memory care facility, memory care services, memory
324 care residents, dementia care, dementia care facility,
325 Alzheimer's care, and Alzheimer's care facility. A facility that
326 is not licensed to provide memory care services may advertise
327 the supportive services, as defined in s. 429.02, it provides
328 for persons with Alzheimer's disease and related dementias so
329 long as such advertisements do not use any terms or terminology
330 prohibited by the agency's rules pursuant to this subsection,
331 such advertisements do not make any claim that the facility
332 provides memory care services, and the facility maintains a copy
333 of such advertisements in its records. The agency shall examine
334 all such advertisements in the facility's records as part of its
335 licensure renewal procedure.

336 (i) Requirements that a facility must meet to continue to
337 serve memory care residents without obtaining a memory care
338 services license pursuant to subsection (5).

339 (3) An assisted living facility licensed on or after the
340 effective date of the rules required by subsection (2) must
341 obtain a memory care services license to provide memory care
342 services, serve memory care residents, or advertise or hold
343 itself out as providing memory care services or otherwise
344 serving memory care residents.

345 (4) Except as provided in subsection (5), an assisted
346 living facility licensed before the effective date of the rules
347 required by subsection (2) must obtain a memory care services
348 license within 6 months after the effective date of such rules

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349 in order to begin or continue to provide memory care services,
350 serve memory care residents, or advertise or hold itself out as
351 providing such services or serving such residents.

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

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

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

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

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

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

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

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

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

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

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

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

382 (c) This subsection may not be construed to exempt a
383 facility from meeting any other requirements in law or rule as
384 applicable to the facility, including, but not limited to,
385 requirements related to the appropriateness of placements for
386 residents of the facility established in s. 429.26.

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

389 429.17 Expiration of license; renewal; conditional
390 license.—

391 (1) Limited nursing, extended congregate care, ~~and~~ limited
392 mental health licenses, and memory care services shall expire at
393 the same time as the facility's standard license, regardless of
394 when issued.

395 Section 5. Effective upon the adoption of rules
396 establishing minimum standards for memory care services
397 licensees pursuant to s. 429.076, Florida Statutes, ss. 429.177
398 and 429.178, Florida Statutes, are repealed.

399 Section 6. This act shall take effect upon becoming a law.