

CHAPTER 2026-102

Committee Substitute for Committee Substitute for Senate Bill No. 1404

An act relating to memory care; amending s. 429.02, F.S.; defining terms; amending s. 429.07, F.S.; requiring licenses for assisted living facilities that provide memory care services; making technical changes; creating s. 429.076, F.S.; requiring an assisted living facility that serves memory care residents or holds itself out as providing memory care services to obtain a memory care services license; providing an exception; requiring an assisted living facility to maintain certain licensure and meet certain requirements in order to obtain a memory care services license; requiring that a memory care license be renewed at the same time as the assisted living facility's standard license; requiring the Agency for Health Care Administration to adopt rules governing memory care services licenses by a specified date; specifying requirements for such rules; requiring an assisted living facility licensed on or after the effective date of such rules to obtain a memory care services license to carry out certain functions; requiring an assisted living facility licensed before the effective date of such rules to obtain a memory care services license within a specified timeframe after the effective date of such rules; authorizing a facility that served memory care residents without a memory care services license before a specified date to continue to do so if certain requirements are met; requiring a facility without a memory care services license to meet specified requirements if a memory care resident decides to remain at the facility despite the absence of such license; providing construction; amending s. 492.17, F.S.; providing that a memory care license expires at the same time as the facility's standard license; repealing ss. 429.177 and 429.178, F.S., relating to patients with Alzheimer's disease or other related disorders and certain disclosures and special care for persons with Alzheimer's disease or other related disorders, respectively, upon the adoption of certain rules; providing an effective date.

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

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

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

(12) “Extended congregate care” means acts beyond those authorized in subsection (20) ~~(18)~~ which may be performed pursuant to part I of chapter 464 by persons licensed thereunder while carrying out their professional duties, and other supportive services that may be specified by rule. The purpose of such services is to enable residents to age in place in a residential

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

(15) “Memory care resident” means a person who suffers from Alzheimer’s disease or a related dementia who is a resident of an assisted living facility that claims or otherwise represents that it provides specialized care, services, or activities specifically to support such resident’s Alzheimer’s disease or related dementia, irrespective of whether such care, services, or activities were listed in the resident’s contract.

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

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

429.07 License required; fee.—

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

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

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

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

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

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

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

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

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

- a. Held an extended congregate care 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.

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

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

f. Implement the concept of managed risk.

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

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

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

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

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

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

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

2. A facility that is licensed to provide limited nursing services shall maintain a written progress report on each person who receives such nursing services from the facility’s staff. The report must describe the type, amount, duration, scope, and outcome of services that are rendered and the general status of the resident’s health. A registered nurse representing the agency shall visit the facility at least annually to monitor residents who are

receiving limited nursing services and to 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 care services, must obtain a memory care services license pursuant to subsection (3) or subsection (4), as applicable. A facility is not required to obtain a memory care services license if the facility solely provides supportive services, as defined in s. 429.02, for residents with Alzheimer’s disease and related dementias which are optional and available to all residents of the facility so long as the facility complies with agency rules on advertising pursuant to paragraph (2)(h).

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

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

- (a) Policies and procedures for providing memory care services.
- (b) Standardized admittance criteria for memory care residents.
- (c) The minimum level of care, services, and activities that must be provided to memory care residents.

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

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

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

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

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

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

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

(4) Except as provided in subsection (5), an assisted living facility licensed before the effective date of the rules required by subsection (2) must obtain a memory care services license within 6 months after the effective date of such rules 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 subparagraph (a)2., a memory care resident or, if applicable, his or her caregiver decides that the resident will remain at the facility, the facility must:

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

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

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

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

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

429.17 Expiration of license; renewal; conditional license.—

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

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

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

Approved by the Governor May 22, 2026.

Filed in Office Secretary of State May 22, 2026.