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Client Alert: Assisted Living Facilities in Florida, New Memory Care Rules

In 2026, after many years in the making, the Florida Legislature adopted a new statute that requires Florida assisted living facilities (ALFs) that provide, or advertise that they provide, memory care services to obtain a “memory care license.” The new law, sponsored by Florida Senate Health Policy Chair Senator Colleen Burton (R-Winter Haven), will change how ALFs can care for and advertise services to residents with Alzheimer’s disease and related dementia. See [Florida Memory Care Law \(CS/CS/SB 1404\)](#), [Section 429.076, Fla. Stat., Laws of Fla. 2026-102](#).

“Memory Care Services” are defined as “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.” Memory Care Services do NOT include “supportive services,” which are services, care, or activities designed to encourage and assist residents to remain in the least restrictive living environment and maintain their independence as long as possible and that are optional and available to all facility residents.

To implement this law, in June 2026, the Florida Agency for Healthcare Administration (AHCA) started the rulemaking process to develop a new specialty license rule for ALFs providing or advertising memory care services. In the Notice of Development of Rulemaking, AHCA notified the public of its intent to create Rule 59A-36.0225 and scheduled a public workshop for July 8, 2026. At the public workshop, AHCA requested comments from the public. Multiple trade associations have publicly announced that they have shared rule language with AHCA, but AHCA has not yet published its proposed rule language. The statute requires AHCA to finalize the proposed rules by June 1, 2027.

The proposed rule will include requirements for ALFs licensed to provide memory care services relating to:

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- The ALF's policies and procedures relating to memory care services;
- Standardized admittance criteria for memory care residents;
- The minimum level of care, services, and activities that must be provided to memory care residents;
- Minimum training requirements for staff at ALF with memory care services licenses;
- Safety requirements specific to memory care residents, including, but not limited to, requiring a licensed ALF to maintain at least one awake staff member to be on duty at all hours;
- Physical plant requirements for an ALF, or parts of an ALF, serving memory care residents; and
- Requirements for contracts with memory care residents that specify the memory care services that will be provided to memory care residents.

In addition, the proposed rule will include requirements for ALFs that are NOT licensed to provide memory care services, including:

- Prohibition of using terms such as "memory care" or "dementia care" or "Alzheimer's care" in advertising for the ALF; and
- Requirement to maintain all advertisements used by ALF for review and monitoring by AHCA.

The proposed rule will also allow ALFs to provide memory care services in certain limited circumstances without a memory care services license upon a demonstration that the facility is unable to reasonably attain that license, communication with the resident regarding the facility's limitations, and amendment of the resident's contract to specify the services to be provided. This exception is subject to detailed limiting conditions.

In Florida, new rules can be opposed if someone can identify a less costly regulatory alternative that achieves the statutory goals. That process can involve either informal public comment, detailed written legal proceedings, or both. The process will move forward with the publication of a Notice of Proposed Rule, at which point affected persons can propose alternatives (that achieve the statutory goals of the memory care law) and can request a further workshop or hearing to discuss changes to the proposed rule.

If you own or operate a Florida ALF, Shumaker can help you to participate in this rulemaking process to ensure that the new rules and licensing structure align with the real-life policies and procedures of facilities and are achievable and practicable for ALFs. If you have questions or would like more information, please contact Ginny Dailey.