

# SENATE BILL REPORT

## SB 5337

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As of January 28, 2025

**Title:** An act relating to improving dementia care in Washington by creating a certification for memory care services.

**Brief Description:** Creating a certification for memory care services.

**Sponsors:** Senators Orwall, Frame, Hasegawa, Lovick and Nobles.

**Brief History:**

**Committee Activity:** Health & Long-Term Care: 1/28/25.

**Brief Summary of Bill**

- Establishes a memory care certification beginning July 1, 2026, and prohibits anyone from operating or maintaining a memory care facility or memory care unit within the state without a certification after that date.

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### SENATE COMMITTEE ON HEALTH & LONG-TERM CARE

**Staff:** Julie Tran (786-7283)

**Background:** Assisted Living Facility. Assisted living facilities (ALFs) are a type of long-term care (LTC) facility that provide housing and basic services to seven or more residents. Each ALF provides a range of services which may include housekeeping, meals, laundry, activities, assistance with activities of daily living, health support services, and intermittent nursing services

Department of Social and Health Services. The Department of Social and Health Services (DSHS) oversees licensing and regulatory compliance for LTC facilities in Washington State and is authorized to take enforcement actions against a facility for noncompliance.

Specialized Dementia Care Program. The DSHS Specialized Dementia Care Program is for

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a person with dementia who can no longer live at home and need Medicaid funding to help pay for LTC services in a facility.

Through DSHS, for a person with dementia, this program offers a package of specialized dementia care services while living at an ALF. DSHS contracts with ALFs throughout the state to provide the specialized dementia care services package, which include:

- care, supervision, and activities tailored to the specific needs, interests, abilities, and preferences of the person;
- coordination with the person's family to ensure the person's routines and preferences are honored;
- dementia-specific training for staff;
- awake staff twenty-four hours a day;
- a safe outdoor environment with walking paths and access to a secure outdoor area; and
- intermittent nursing services, help with medications, personal care, and other support services.

To be eligible for this program, a person with dementia must meet all three of the following requirement. The person must be:

- diagnosed with Alzheimer's disease or another irreversible dementia such as vascular dementia, Lewy body dementia, Pick's disease, or Creutzfeldt-Jakob disease;
- receiving or eligible for Medicaid; and
- assessed by a DSHS assigned case manager and found to have the need for specialized dementia care.

Dementia. Dementia is an overall term describing a decline in mental ability that interferes with daily life and affects memory, thinking, and behavior. There are many types of dementia and each form of dementia has a different cause. Alzheimer's disease is the most common type of dementia and accounts for between 60 percent to 80 percent of cases. Other common types include: vascular dementia, Lewy body dementia, frontotemporal dementia, and mixed dementia.

In 2023, according to the Alzheimer's Disease Facts and Figures Report, an estimated 6.7 million older adults have and are living with Alzheimer's disease in the United States and without the development of medical breakthroughs to prevent, slow, or cure Alzheimer's disease, that number is projected to double to nearly 14 million adults by 2060.

**Summary of Bill:** After July 1, 2026, a person may not operate or maintain a memory care facility or memory care unit within this state without a certification for memory care services.

Memory Care Certification. An ALF must apply to become certified, pay any fees, and provide any definition required by DSHS to demonstrate the facility meets the certification requirements. There are two pathways to be certified as a memory care facility or memory

care unit. A licensed ALF must: (1) provide a proof of a valid contract with DSHS to provide dementia care services at a Medicaid enhanced rate, or (2) have a valid and current ALF license and meet all the following requirements:

- have a valid and current ALF license;
- not have any uncorrected significant enforcement actions in the 12 months prior to the application date that includes: citations issues in areas that adversely affect resident care; civil fines based on DSHS' determination of moderate or serious severity; a stop placement, or any conditions on a license related to resident care; or any license revocation or summary suspension actions;
- not have an established pattern of repeated citations or significant enforcement actions that adversely affect resident care in the 24 months prior to the date of application;
- have permanent building structure that provides a separate wing, unit, or building for memory care where residents will reside and that meets the needs of residents with dementia, including elements intended to prevent elopement such as restricted egress;
- complete a full assessment of each resident receiving care in the memory care facility or memory care unit on a semiannual basis, at minimum;
- maintain staffing levels in the ALF memory care portions are appropriate to meet the residents with dementia's unique needs;
- provide daily activity programming that are consistent with the individual residents' functional abilities, interests, habits, and preferences;
- have an outdoor area for residents that meets additional specifications;
- ensure that areas used by residents have a residential atmosphere and residents have opportunities for privacy, socialization, and safe walking and wandering behaviors; and
- have developed policies and procedures to: plan for and respond to memory care residents who may wander; outline actions to be taken when a memory care resident is missing; and outline how consultative resources to address resident behavioral challenges for residents will be obtained when needed, outline how the professionals who will provide the consultation, and specify when and how the consultation will be utilized.

A certified memory care provider required to maintain appropriate staffing levels to meet the unique needs of residents with dementia, which must include:

- maintaining awake staff 24 hours per day at a level that is adequate to respond to the assessed sleeping and waking patterns and residents' needs;
- maintaining staffing levels adequate to routinely provide assistance with eating, drinking, and cueing of eating and drinking, and other necessary physical assistance with eating for residents who require feeding assistance;
- ensuring each staff member working directly with memory care residents have at least six hours of continuing education per year related to dementia; and
- ensuring staff who work directly with memory care residents are familiar with the ALF's comprehensive disaster preparedness plan.

A certified memory care provider is not required to provide or maintain feeding tubes or intravenous nutrition.

A certified memory care provider is required, on a daily basis with exception during the activation of the disaster preparedness plan, to:

- provide residents access to: opportunities for independent, self-directed activities; individual activities that a staff person or volunteer engages the resident in a planned or spontaneous activity of interest; and group activities.
- offer opportunities for activities accommodating variations in a resident's mood, energy, and preferences.
- make available multiple common areas that could be shared with other ALF residents, at least one of which is outdoors, when possible, and can accommodate and offer opportunities for individual or group activity.

A certified memory care provider must make appropriate activities available based upon the resident's individual schedule and interests, such as providing access to staff support, food, and appropriate activities to residents who are awake at night.

A certified memory care provider is required to have an outdoor area for residents that:

- is accessible to residents without staff assistance;
- is surrounded by walls or fences at least 72 inches high;
- has areas protected from direct sunlight and rain throughout the day;
- has firm, stable, and slip-resistant walking surfaces, which are free from abrupt changes and suitable for individuals using wheelchairs and walkers;
- has suitable outdoor furniture;
- has non-poisonous and non-toxic plants;
- has areas for appropriate outdoor activities that are of interest to residents; and
- is monitored during extreme weather events to ensure the residents' health and well-being is not adversely impacted by their time outside.

A certified memory care provider must ensure residents have access to their own rooms at all times without staff assistance.

Other Requirements for Certified Memory Care Providers. If any part of an ALF has restricted egress, it is sufficient to be considered as a memory care facility or memory care unit.

Any ALF that goes through an ownership change must submit a certification application as a memory care facility at the same time that the ALF is applying for an ALF license through an ownership change proceeding.

An ALF must develop and maintain a comprehensive disaster preparedness plan to be followed in the event of a disaster or emergency including extreme heat and extreme cold. A certified memory care provider must have comprehensive disaster preparedness plans that

specifically consider the needs of residents with dementia.

For certified memory care providers, a disclosure form and any decrease in scope of services notices, as established in rule by DSHS, must include a description of the memory care facility or memory care unit's staffing coverage. This information must include the number of awake staff available overnight and the regular direct care staffing level per bed in the memory care facility or memory care unit. DSHS must provide an example of an accepted disclosure form to facilities and units for their use.

Noncompliance Violations. DSHS may take action if an ALF is found to have continued: using terminology such as memory care facility or dementia care facility without having been issued a memory care certification; or operating a facility or unit within a facility that has restricted egress without having been issued a memory care certification.

Actions DSHS may take for a noncompliance violation include but are not limited to:

- imposing civil penalties of up to \$10,000 for a current or former licensed provider who is operating an uncertified memory care facility, or uncertified memory care unit;
- suspend, revoke, or refuse to renew a memory care certification; or
- suspend admissions by imposing a stop placement to the memory care facility or memory care unit.

Department of Social and Health Services Duties and Responsibilities. DSHS must maintain a register of ALFs that are certified as memory care facilities or memory care units and that register must be available to the public and consumers.

DSHS must provide a current registration document to the certified memory care provider. The registration document must be posted in a public area for residents, their families, and visitors to view upon entering the main entrance of the memory care facility or memory care unit.

DSHS, during the course of its regular licensing inspection activities, must review whether a certified memory care provider continues to comply with the certification requirements.

Enforcement and Rulemaking Authority. The Office of the Attorney General has enforcement authority under the Consumer Protection Act and allows for action to be taken against entities that violate the certification requirements.

DSHS has rulemaking authority to:

- implement the memory care certification; and
- address how currently operating memory care facilities or memory care units applying for certification must operate during the certification application process.

Definitions. A "memory care facility" or "memory care unit" means any ALF which

markets, or otherwise represents, itself as providing memory care or specialized dementia care services, whether as a facility dedicated solely to serving residents with dementia within a dedicated unit or wing within a larger facility. An ALF does not need to specifically use the terms memory care facility, specialized dementia care, or similar terms in its advertising or name to be considered a memory care facility.

“Memory care services” and “specialized dementia care services” means services offered and provided in addition to the ALF's domiciliary care services that are responsive to an individual with dementia's typical needs and provided to residents within a facility with restricted egress dedicated solely to serving residents with dementia or within a dedicated unit or wing with restricted egress within a larger facility.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: There are many ALFs in the state that call themselves memory care and can be very costly for people. This bill provides an opportunity for the state to lead and create a consistent definition for memory care across all facilities to help the staff, care providers, individuals, and their families. This bill is also for DSHS oversight and gives multiple layers of protection for the clients and their families. It gives families peace of mind that their loved ones are receiving the highest quality of care possible in the state's memory care units.

OTHER: Developing a new provider certification takes careful work to ensure that problems are identified and resolved. There are continued discussions on the bill. There are concerns about the bill that include the initial certification process, the conflict with certain regulations, and the disclosure requirements. It's important to carefully craft a definition for memory care.

**Persons Testifying:** PRO: Senator Tina Orwall, Prime Sponsor; Teresa Matthews; Brad Forbes, Alzheimer's Association; Joanna Grist, AARP; Melanie Smith, WA State Long Term Care Ombuds Program.

OTHER: Carma Matti-Jackson, Washington Health Care Association (WHCA); Alyssa Odegaard, LeadingAge Washington.

**Persons Signed In To Testify But Not Testifying:** No one.