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**SUBSTITUTE SENATE BILL 5337**

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**State of Washington 69th Legislature 2025 Regular Session**

**By** Senate Health & Long-Term Care (originally sponsored by Senators Orwall, Frame, Hasegawa, Lovick, and Nobles)

AN ACT Relating to improving dementia care in Washington by creating a certification for memory care services; amending RCW 18.20.020, 18.20.190, 18.20.300, 18.20.320, and 18.20.525; adding new sections to chapter 18.20 RCW; creating a new section; and providing an expiration date.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  (1) The legislature finds that:

(a) "Memory care" is not well-defined and has no standard definition in Washington. Memory care, however, is commonly understood to be a form of specialized care for people living with progressive memory loss or dementia. The term is most often applied to assisted living communities or other residential settings that offer specialized services and a specially designed environment that accommodates the needs of this population;

(b) A growing number of assisted living facilities use memory care in their names or their service descriptions and advertise themselves as providing memory care, Alzheimer's care, or dementia care. An informal study performed by the dementia action collaborative in 2021 found that there are approximately 237 assisted living facilities in Washington that advertise themselves as offering memory care or specialized dementia care, and that exact terminology and related available services varied. The use of the term "memory care" may mean that the whole building is devoted to the care of people living with dementia or that they offer a special unit or wing devoted solely to memory care; and

(c) The lack of a standard definition for memory care has resulted in differing physical environments and services from one facility to another. This situation makes it difficult for consumers and family members who are seeking or receiving care to understand the services and staffing currently offered and that can be expected as needs change over time.

(2) The legislature intends to create a memory care facility certification for licensed assisted living facilities, managed by the department of social and health services, to create a more standardized definition of memory care in Washington and help consumers make informed choices about receiving memory care services in assisted living facilities.

NEW SECTION. **Sec.**  A new section is added to chapter 18.20 RCW to read as follows:

(1) After July 1, 2026, a person may not operate or maintain a memory care facility or memory care unit within this state without becoming certified under this section.

(2) To become certified by the department as a memory care facility or memory care unit, a licensed assisted living facility must:

(a) Have a valid, current license to operate the assisted living facility, as required under RCW 18.20.030;

(b) Not have a pattern of any of the following uncorrected or recurring significant enforcement actions prior to the date of application:

(i) Citations issued in areas related to resident harm or serious risk of harm, or actions or inactions resulting in serious disregard for resident health, safety, or deterioration of quality of care; or

(ii) Civil fines based on the department's determination of moderate or serious severity;

(c) Not have a stop placement, or any conditions on a license related to resident care or any license revocation or summary suspension actions prior to the date of application;

(d) Have permanent infrastructure that considers the specialized needs of residents with dementia including elements intended to prevent elopement;

(e) Have a staffing plan that provides staff levels in the memory care unit that is adequate to respond to the assessed sleeping and waking patterns and needs of residents, including awake staff 24 hours per day at a level that is adequate to respond to the needs of residents. This shall include:

(i) If residents are in separate buildings or cottages, at least one awake staff must be physically present in each building or cottage;

(ii) Maintaining staffing levels adequate to routinely provide assistance with eating, drinking, and cueing of eating and drinking, and occasionally provide all necessary physical assistance with eating for residents who require feeding assistance, including cutting up food into appropriate-sized pieces and helping the resident get food and liquid into their mouth. Nothing in this subsection (2)(e)(ii) shall be construed as requiring a memory care facility or memory care unit to provide total feeding assistance for an extended or indefinite period. Memory care facilities or memory care units are not required to provide or maintain feeding tubes or intravenous nutrition;

(f) Provide a physical building structure that has access sufficient to meet programming and daily activities as specified in subsection (3) of this section; and

(g) Have developed policies and procedures to:

(i) Plan for and respond appropriately to memory care facility or memory care unit residents who may wander;

(ii) Outline actions to be taken when a memory care resident is missing; and

(iii) Outline how consultative resources for residents will be obtained when needed for addressing resident behavioral challenges, outline the professional or professionals who will provide the consultation, and specify when and how the consultation will be utilized. Relevant professionals include, but are not limited to, clinical psychologists, psychiatrists, psychiatric nurse practitioners, and other specialists who are familiar with the care of persons with dementia.

(3) To maintain certification by the department as a memory care facility or memory care unit, a licensed assisted living facility shall:

(a) Comply with the plans and requirements outlined in subsection (2) of this section;

(b) Complete a full assessment of each resident receiving specialized care in the memory care facility or memory care unit, on a semiannual basis at a minimum, that considers the needs of residents with dementia;

(c) Ensure that each long-term care worker who works directly with memory care residents has at least six hours of continuing education per year related to dementia, including Alzheimer's disease. The six hours of continuing education per year may be part of other required training established in this chapter and chapter 18.88B RCW;

(d) Ensure that staff who work directly with memory care facility or memory care unit residents are familiar with the comprehensive disaster preparedness plan of the assisted living facility, as required under RCW 18.20.525. For an assisted living facility with a memory care certification, the comprehensive disaster preparedness plan must include the provisions specific to the needs of residents receiving certified memory care services with dementia;

(e) Provide programming that provides daily activities consistent with the functional abilities, interests, habits, and preferences of the individual residents. On a daily basis, except during the activation of the disaster preparedness plan, a memory care facility or memory care unit must:

(i) Provide residents access to:

(A) Opportunities for independent, self-directed activities;

(B) Individual activities in which a staff person or volunteer engages the resident in a planned or spontaneous activity of interest. Activities may include personal care activities that provide opportunities for purposeful and positive interactions; and

(C) Group activities;

(ii) Offer opportunities for activities that accommodate variations in a resident's mood, energy, and preferences. The memory care facility or memory care unit 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;

(iii) Make available common areas that could be shared with other residents within the assisted living facility, at least one of which is outdoors, that vary by size and arrangement including, but not limited to: Various size furniture groupings that encourage social interaction; areas with environmental cues that may stimulate activity, such as a resident kitchen or workshop; areas with activity supplies and props to stimulate conversation; a garden area; and paths and walkways that encourage exploration and walking. These areas must accommodate and offer opportunities for individual or group activity;

(f) Have an outdoor area for residents that:

(i) Is accessible to residents without staff assistance;

(ii) Is surrounded by walls or fences tall enough to prevent typical elopement behaviors;

(iii) Has areas protected from direct sunlight and rain throughout the day;

(iv) Has walking surfaces that are firm, stable, slip-resistant, free from abrupt changes, and suitable for individuals using wheelchairs and walkers;

(v) Has suitable outdoor furniture;

(vi) Has plants that are not poisonous or toxic to humans;

(vii) Has areas for appropriate outdoor activities of interest to residents, such as walking paths, raised garden or flower beds, and bird feeders; and

(viii) During extreme weather events, is monitored or access can be restricted to ensure the health and well-being of the residents is not adversely impacted by their time outside; and

(g) Ensure that areas used by residents have a residential atmosphere and residents have opportunities for privacy, socialization, and safe walking and wandering behaviors, including:

(i) Encouraging residents' individualized spaces to be furnished or decorated with personal items based on resident needs and preferences; and

(ii) Ensuring residents have access to their own rooms at all times without staff assistance.

(4) To allow access to memory care throughout the state, the department may allow conditional exemptions to subsection (3)(f) of this section for locations operating in buildings constructed or originally licensed prior to July 1, 2025, where an outdoor space is located on a floor other than where the residents reside and an alternative viewing area was created in the memory care unit, as long as the viewing area:

(a) Is not obstructed by indoor furniture, storage areas, cleaning equipment, trash receptacles, snack food or drink tables, or other such encumbrances that would minimize access to the viewing area;

(b) Does not serve as a hallway or an additionally required community space such as a dining area or activity room;

(c) Does not house mobile health care services, such as home health, podiatrist, and dental services, or other purposes;

(d) Is a community space not within the residents' room; and

(e) Has windows that have an unobstructed and viewable height accessible by wheelchair.

(5) The department shall maintain a register of assisted living facilities that are certified as memory care facilities or memory care units and shall make this register available to the public and consumers.

(6) An assisted living facility must apply to the department to become certified and pay any fees and provide any information as the department requires by rule to demonstrate the facility meets the requirements of subsection (2) of this section and any implementing rules.

(7) During the course of its regular licensing inspection activities, the department shall review whether a certified memory care facility or memory care unit continues to comply with requirements in this section.

(8) Any assisted living facility with a certified memory care facility or memory care unit that goes through a change of ownership shall submit an application for certification as a memory care facility at the same time that it applies for an assisted living facility license through a change of ownership proceeding.

(9) The department shall provide a current certification document to the memory care facility or memory care unit and require that the document is 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.

(10) The department shall adopt rules to implement this section.

NEW SECTION. **Sec.**  A new section is added to chapter 18.20 RCW to read as follows:

(1) The department shall adopt rules on how currently operating memory care facilities or memory care units applying for certification shall operate during the certification application process. These rules may include where the department may, at its sole discretion, grant conditional exemptions on a case-by-case basis for facilities operating before July 1, 2026, to prevent disruption of services or displacement of residents.

(2) This section expires December 1, 2028.

NEW SECTION. **Sec.**  A new section is added to chapter 18.20 RCW to read as follows:

(1) The legislature finds that the practices covered by section 2(1) of this act, the operation of a memory care facility without a certification, are matters vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW. A violation of this chapter is not reasonable in relation to the development and preservation of business and is an unfair or deceptive act in trade or commerce and an unfair method of competition for the purpose of applying the consumer protection act, chapter 19.86 RCW.

(2) Section 2 of this act may be enforced by the attorney general under the consumer protection act, chapter 19.86 RCW.

**Sec.**  RCW 18.20.020 and 2020 c 312 s 726 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Adult day services" means care and services provided to a nonresident individual by the assisted living facility on the assisted living facility premises, for a period of time not to exceed ten continuous hours, and does not involve an overnight stay.

(2) "Assisted living facility" means any home or other institution, however named, which is advertised, announced, or maintained for the express or implied purpose of providing housing, basic services, and assuming general responsibility for the safety and well-being of the residents, and may also provide domiciliary care, consistent with chapter 142, Laws of 2004, to seven or more residents after July 1, 2000. However, an assisted living facility that is licensed for three to six residents prior to or on July 1, 2000, may maintain its assisted living facility license as long as it is continually licensed as an assisted living facility. "Assisted living facility" shall not include facilities certified as group training homes pursuant to RCW 71A.22.040, nor any home, institution or section thereof which is otherwise licensed and regulated under the provisions of state law providing specifically for the licensing and regulation of such home, institution or section thereof. Nor shall it include any independent senior housing, independent living units in continuing care retirement communities, or other similar living situations including those subsidized by the department of housing and urban development.

(3) "Basic services" means housekeeping services, meals, nutritious snacks, laundry, and activities.

(4) "Dementia" means the irreversible loss of cognitive or intellectual function such as thinking, remembering, and reasoning so severe that it interferes with an individual's daily functioning and everyday life. "Dementia" is not a specific diagnosis, but rather a group of symptoms that accompany certain diseases or conditions including, but not limited to, Alzheimer's disease, vascular dementia, frontotemporal dementia, Lewy body dementia, alcohol-related dementia, and major neurocognitive disorder. "Dementia" does not include temporary or reversible destabilization due to delirium or behavioral or mental health disorders.

(5) "Department" means the state department of social and health services.

((~~(5)~~)) (6) "Domiciliary care" means: Assistance with activities of daily living provided by the assisted living facility either directly or indirectly; or health support services, if provided directly or indirectly by the assisted living facility; or intermittent nursing services, if provided directly or indirectly by the assisted living facility.

((~~(6)~~)) (7) "General responsibility for the safety and well-being of the resident" means the provision of the following: Prescribed general low sodium diets; prescribed general diabetic diets; prescribed mechanical soft foods; emergency assistance; monitoring of the resident; arranging health care appointments with outside health care providers and reminding residents of such appointments as necessary; coordinating health care services with outside health care providers consistent with RCW 18.20.380; assisting the resident to obtain and maintain glasses, hearing aids, dentures, canes, crutches, walkers, wheelchairs, and assistive communication devices; observation of the resident for changes in overall functioning; blood pressure checks as scheduled; responding appropriately when there are observable or reported changes in the resident's physical, mental, or emotional functioning; or medication assistance as permitted under RCW 69.41.085 and as defined in RCW 69.41.010.

((~~(7)~~)) (8) "Legal representative" means a person or persons identified in RCW 7.70.065 who may act on behalf of the resident pursuant to the scope of their legal authority. The legal representative shall not be affiliated with the licensee, assisted living facility, or management company, unless the affiliated person is a family member of the resident.

((~~(8)~~)) (9) "Memory care facility" or "memory care unit" means any assisted living facility 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 or within a dedicated unit or wing within a larger facility. An assisted living facility does not need to specifically use the terms "memory care facility," "specialized dementia care," or similar terms in its name to be considered a memory care facility under this chapter. If any part of an assisted living facility has restricted egress that prevents residents with cognitive impairment from leaving the facility without accompaniment by staff or another individual, it is sufficient to be considered as a memory care facility or memory care unit requiring certification under section 2 of this act.

(10) "Memory care services" and "specialized dementia care services" means services offered and provided in addition to the domiciliary care services provided by the assisted living facility that are responsive to the typical needs of an individual with dementia.

(11) "Nonresident individual" means a person who resides in independent senior housing, independent living units in continuing care retirement communities, or in other similar living environments or in an unlicensed room located within an assisted living facility. Nothing in this chapter prohibits nonresidents from receiving one or more of the services listed in RCW 18.20.030(5) or requires licensure as an assisted living facility when one or more of the services listed in RCW 18.20.030(5) are provided to nonresidents. A nonresident individual may not receive domiciliary care, as defined in this chapter, directly or indirectly by the assisted living facility and may not receive the items and services listed in subsection ((~~(6)~~)) (7) of this section, except during the time the person is receiving adult day services as defined in this section.

((~~(9)~~)) (12) "Person" means any individual, firm, partnership, corporation, company, association, or joint stock association, and the legal successor thereof.

((~~(10)~~)) (13) "Resident" means an individual who is not related by blood or marriage to the operator of the assisted living facility, and by reason of age or disability, chooses to reside in the assisted living facility and receives basic services and one or more of the services listed under general responsibility for the safety and well-being of the resident and may receive domiciliary care or respite care provided directly or indirectly by the assisted living facility and shall be permitted to receive hospice care through an outside service provider when arranged by the resident or the resident's legal representative under RCW 18.20.380.

((~~(11)~~)) (14) "Resident applicant" means an individual who is seeking admission to a licensed assisted living facility and who has completed and signed an application for admission, or such application for admission has been completed and signed in their behalf by their legal representative if any, and if not, then the designated representative if any.

((~~(12)~~)) (15) "Resident's representative" means a person designated voluntarily by a competent resident, in writing, to act in the resident's behalf concerning the care and services provided by the assisted living facility and to receive information from the assisted living facility, if there is no legal representative. The resident's competence shall be determined using the criteria in chapter 11.130 RCW. The resident's representative may not be affiliated with the licensee, assisted living facility, or management company, unless the affiliated person is a family member of the resident. The resident's representative shall not have authority to act on behalf of the resident once the resident is no longer competent.

((~~(13)~~)) (16) "Secretary" means the secretary of social and health services.

**Sec.**  RCW 18.20.190 and 2018 c 173 s 4 are each amended to read as follows:

(1) The department of social and health services is authorized to take one or more of the actions listed in subsection (2) of this section in any case in which the department finds that an assisted living facility provider has:

(a) Failed or refused to comply with the requirements of this chapter or the rules adopted under this chapter;

(b) Operated an assisted living facility without a license or under a revoked license;

(c) Knowingly, or with reason to know, made a false statement of material fact on his or her application for license or any data attached thereto, or in any matter under investigation by the department; ((~~or~~))

(d) Willfully prevented or interfered with any inspection or investigation by the department;

(e) Continued to use terminology such as "memory care facility" or "dementia care facility" without having been issued a certificate under section 2 of this act; or

(f) Continued to operate a facility or unit within a facility that has restricted egress without having been issued a certificate under section 2 of this act.

(2) When authorized by subsection (1) of this section, the department may take one or more of the following actions, using a tiered sanction grid that considers the extent of harm from the deficiency and the regularity of the occurrence of the deficiency when imposing civil fines:

(a) Refuse to issue a license;

(b) Impose reasonable conditions on a license, such as correction within a specified time, training, and limits on the type of clients the provider may admit or serve;

(c) Impose civil penalties of at least one hundred dollars per day per violation. Until July 1, 2019, the civil penalties may not exceed one thousand dollars per day per violation. Beginning July 1, 2019, through June 30, 2020, the civil penalties may not exceed two thousand dollars per day per violation. Beginning July 1, 2020, the civil penalties may not exceed three thousand dollars per day per violation;

(d) Impose civil penalties of up to ten thousand dollars for a current or former licensed provider who is operating an unlicensed facility, uncertified memory care facility, or uncertified memory care unit;

(e) Suspend, revoke, or refuse to renew a license or memory care certification;

(f) Suspend admissions to the assisted living facility, memory care facility, or memory care unit by imposing stop placement; or

(g) Suspend admission of a specific category or categories of residents as related to the violation by imposing a limited stop placement.

(3) When the department orders stop placement or a limited stop placement, the facility shall not admit any new resident until the stop placement or limited stop placement order is terminated. The department may approve readmission of a resident to the facility from a hospital or nursing home during the stop placement or limited stop placement. The department shall terminate the stop placement or limited stop placement when: (a) The violations necessitating the stop placement or limited stop placement have been corrected; and (b) the provider exhibits the capacity to maintain correction of the violations previously found deficient. However, if upon the revisit the department finds new violations that the department reasonably believes will result in a new stop placement or new limited stop placement, the previous stop placement or limited stop placement shall remain in effect until the new stop placement or new limited stop placement is imposed.

(4) After a department finding of a violation for which a stop placement or limited stop placement has been imposed, the department shall make an on-site revisit of the provider within fifteen working days from the request for revisit, to ensure correction of the violation. For violations that are serious or recurring or uncorrected following a previous citation, and create actual or threatened harm to one or more residents' well-being, including violations of residents' rights, the department shall make an on-site revisit as soon as appropriate to ensure correction of the violation. Verification of correction of all other violations may be made by either a department on-site revisit or by written or photographic documentation found by the department to be credible. This subsection does not prevent the department from enforcing license suspensions or revocations. Nothing in this subsection shall interfere with or diminish the department's authority and duty to ensure that the provider adequately cares for residents, including to make departmental on-site revisits as needed to ensure that the provider protects residents, and to enforce compliance with this chapter.

(5) RCW 43.20A.205 governs notice of a license denial, revocation, suspension, or modification. Chapter 34.05 RCW applies to department actions under this section, except that orders of the department imposing license suspension, stop placement, limited stop placement, or conditions for continuation of a license are effective immediately upon notice and shall continue pending any hearing.

(6) All receipts from civil penalties imposed under this chapter must be deposited in the assisted living facility temporary management account created in RCW 18.20.430.

(7) For the purposes of this section, "limited stop placement" means the ability to suspend admission of a specific category or categories of residents.

**Sec.**  RCW 18.20.300 and 2012 c 10 s 19 are each amended to read as follows:

(1) An assisted living facility, licensed under this chapter, may provide domiciliary care services, as defined in this chapter, and shall disclose the scope of care and services that it chooses to provide.

(2)(a) The assisted living facility licensee shall disclose to the residents, the residents' legal representative if any, and if not, the residents' representative if any, and to interested consumers upon request, the scope of care and services offered, using the form developed and provided by the department, in addition to any supplemental information that may be provided by the licensee. The form that the department develops shall be standardized, reasonable in length, and easy to read. The assisted living facility's disclosure statement shall indicate the scope of domiciliary care assistance provided and shall indicate that it permits the resident or the resident's legal representative to independently arrange for outside services under RCW 18.20.380.

(b) For assisted living facilities certified as memory care facilities or memory care units under section 2 of this act, the facility must provide an additional disclosure that includes a description of staffing coverage for the memory care facility or the memory care unit, including the number of awake staff that will be available overnight and the regular direct care staffing level per bed in the memory care facility or memory care unit. Residents of the certified memory care facility or memory care unit and their resident representatives as defined in RCW 70.129.010, when relevant, shall be informed of any significant changes in scope of services or staffing within 30 days of the change.

(c) The department shall define significant change in scope of services or staffing for a certified memory care facility or memory care unit and provide an example of an accepted disclosure form to the facilities and units for their use in rule.

(3)(a) If the assisted living facility licensee decreases the scope of services that it provides due to circumstances beyond the licensee's control, the licensee shall provide a minimum of thirty days' written notice to the residents, the residents' legal representative if any, and if not, the residents' representative if any, before the effective date of the decrease in the scope of care or services provided.

(b) If the licensee voluntarily decreases the scope of services, and any such decrease in the scope of services provided will result in the discharge of one or more residents, then ninety days' written notice shall be provided prior to the effective date of the decrease. Notice shall be provided to the affected residents, the residents' legal representative if any, and if not, the residents' representative if any.

(c) If the assisted living facility licensee increases the scope of services that it chooses to provide, the licensee shall promptly provide written notice to the residents, the residents' legal representative if any, and if not, the residents' representative if any, and shall indicate the date on which the increase in the scope of care or services is effective.

(4) When the care needs of a resident exceed the disclosed scope of care or services that an assisted living facility licensee provides, the licensee may exceed the care or services disclosed consistent with RCW 70.129.030(3) and 70.129.110(3)(a). Providing care or services to a resident that exceed the care and services disclosed may or may not mean that the provider is capable of or required to provide the same care or services to other residents.

(5) Even though the assisted living facility licensee may disclose that it can provide certain care or services to resident applicants or to their legal representative if any, and if not, to the resident applicants' representative if any, the licensee may deny admission to a resident applicant when the licensee determines that the needs of the resident applicant cannot be met, as long as the provider operates in compliance with state and federal law, including RCW 70.129.030(3).

(6) The disclosure form is intended to assist consumers in selecting assisted living facility services and, therefore, shall not be construed as an implied or express contract between the assisted living facility licensee and the resident.

**Sec.**  RCW 18.20.320 and 2012 c 10 s 21 are each amended to read as follows:

(1) The assisted living facility licensee may choose to provide any of the following health support services, however, the facility may or may not need to provide additional health support services to comply with the reasonable accommodation requirements in federal or state law:

(a) Blood glucose testing;

(b) Puree diets;

(c) Calorie controlled diabetic diets;

(d) Dementia care, unless the assisted living facility is certified as a memory care facility or memory care unit under section 2 of this act;

(e) Mental health care; and

(f) Developmental disabilities care.

(2) The licensee shall clarify on the disclosure form any limitations, additional services, or conditions that may apply.

(3) In providing health support services, the assisted living facility shall observe the resident for changes in overall functioning and respond appropriately when there are observable or reported changes in the resident's physical, mental, or emotional functioning.

**Sec.**  RCW 18.20.525 and 2021 c 159 s 5 are each amended to read as follows:

(1) Each assisted living facility shall develop and maintain a comprehensive disaster preparedness plan to be followed in the event of a disaster or emergency, including fires, earthquakes, floods, extreme heat, extreme cold, infectious disease outbreaks, loss of power or water, and other events that may require sheltering in place, evacuations, or other emergency measures to protect the health and safety of residents. The facility shall review the comprehensive disaster preparedness plan annually, update the plan as needed, and train all employees when they begin work in the facility on the comprehensive disaster preparedness plan and related staff procedures.

(2) The department shall adopt rules governing the comprehensive disaster preparedness plan. At a minimum, the rules must address: Timely communication with the residents' emergency contacts; timely communication with state and local agencies, long-term care ombuds, and developmental disabilities ombuds; contacting and requesting emergency assistance; on-duty employees' responsibilities; meeting residents' essential needs; procedures to identify and locate residents; and procedures to provide emergency information to provide for the health and safety of residents. In addition, the rules shall establish standards for maintaining personal protective equipment and infection control capabilities, as well as department inspection procedures with respect to the plans.

(3) For assisted living facilities certified as memory care facilities or memory care units under section 2 of this act, comprehensive disaster preparedness plans must specifically consider the needs of residents with dementia.

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