

**CHAPTER 58A-5**  
**ASSISTED LIVING FACILITIES**

- 58A-5.013 Purpose (Repealed)
- 58A-5.0131 Definitions
- 58A-5.014 Licensing and Change of Ownership
- 58A-5.015 License Renewal and Conditional Licenses (Repealed)
- 58A-5.016 License Requirements
- 58A-5.0161 Inspection Responsibilities
- 58A-5.0181 Admission Procedures, Appropriateness of Placement and Continued Residency Criteria
- 58A-5.0182 Resident Care Standards
- 58A-5.0183 Reports of Abuse in Facilities (Repealed)
- 58A-5.0184 Marketing; Rebates Prohibited (Repealed)
- 58A-5.0185 Medication Practices
- 58A-5.0186 Do Not Resuscitate Orders (DNROs)
- 58A-5.019 Staffing Standards
- 58A-5.0191 Staff Training Requirements and Competency Test
- 58A-5.0194 Alzheimer’s Disease or Related Disorders Training Provider and Curriculum Approval
- 58A-5.020 Food Service Standards
- 58A-5.021 Fiscal Standards
- 58A-5.022 Facility Maintenance and Housekeeping Standards (Repealed)
- 58A-5.0222 Sewage (Repealed)
- 58A-5.0223 Garbage and Rubbish (Repealed)
- 58A-5.023 Physical Plant Standards
- 58A-5.024 Records
- 58A-5.0241 Adverse Incident Report
- 58A-5.0242 Liability Claim Report
- 58A-5.025 Resident Contracts
- 58A-5.026 Emergency Management
- 58A-5.028 Subsidy (Repealed)
- 58A-5.029 Limited Mental Health
- 58A-5.030 Extended Congregate Care Services
- 58A-5.031 Limited Nursing Services
- 58A-5.033 Administrative Enforcement
- 58A-5.035 Waivers
- 58A-5.036 Emergency Environmental Control for Assisted Living Facilities

**58A-5.013 Purpose.**

*Rulemaking Authority 400.441 FS. Law Implemented 400.401, 400.428 FS. History—New 5-14-81, Amended 1-6-82, 5-19-83, 9-17-84, Formerly 10A-5.13, Amended 10-20-86, 6-21-88, 8-15-90, 9-30-92, Formerly 10A-5.013, Repealed 10-30-95.*

### **58A-5.0131 Definitions.**

In addition to the terms defined in section 429.02, F.S., the following definitions are applicable in this rule chapter:

(1) “Advertise” means any written, printed, oral, visual, or electronic promotion, statement of availability, qualifications, services offered, or other similar communication appearing in or on television, radio, the Internet, billboards, newspapers, magazines, business cards, flyers, brochures or other medium for the purpose of attracting potential residents to an assisted living facility. A complimentary listing of a licensed facility’s name, address, and telephone number in the telephone directory is not considered advertising.

(2) “Agency Central Office” means the Agency for Health Care Administration Assisted Living Unit (ALU), located at 2727 Mahan Drive, Mail Stop 30, Tallahassee, FL 32308-5403. The ALU telephone number and website address are (850)412-4304, and [http://ahca.myflorida.com/MCHQ/Health\\_Facility\\_Regulation/Assisted\\_Living/alf.shtml](http://ahca.myflorida.com/MCHQ/Health_Facility_Regulation/Assisted_Living/alf.shtml).

(3) “Agency Field Office” means the Agency for Health Care Administration’s Office in a particular geographic area. Information regarding local offices is available online at: <http://ahca.myflorida.com/mchq/index.shtml#six>.

(4) “Apartment” means a self-contained dwelling unit with a bathroom, kitchen area, and living and sleeping space that is contracted for use as a residence by one or more persons who maintain a common household.

(5) “Anti-Embolism Stockings and Hosiery” means prescribed close-fitting elastic-type coverings for therapeutic treatment of the legs. They may be knee high or thigh high length and have transparent, open-toe, or similar foot design.

(6) “Assistance with Activities of Daily Living” means individual assistance with the following:

(a) Ambulation – Providing physical support to enable the resident to move about within or outside the facility. Physical support includes supporting or holding the resident’s hand, elbow, or arm; holding on to a support belt worn by the resident to assist in providing stability or direction while the resident ambulates; or pushing the resident’s wheelchair. The term does not include assistance with transfer.

(b) Bathing – Assembling towels, soaps, or other necessary supplies; helping the resident in and out of the bathtub or shower; turning the water on and off; adjusting water temperatures; washing and drying portions of the body that are difficult for the resident to reach; or being available while the resident is bathing.

(c) Dressing – Helping residents to choose, put on, and remove clothing.

(d) Eating – Helping residents with or by cutting food, pouring beverages, or feeding residents who are unable to feed themselves.

(e) Grooming – Helping residents with shaving, oral care, care of the hair, or nail care.

(f) Toileting – Assisting the resident to the bathroom, helping the resident to undress, positioning the resident on the commode, and helping the resident with related personal hygiene including assistance with changing an adult brief and assistance with the routine emptying of a catheter or ostomy bag.

(7) “Assistance With Transfer” means providing verbal and physical cuing or physical assistance or both while the resident moves between bed and a standing position or between bed and chair or wheelchair. The term does not include total physical assistance with transfer provided by staff to residents.

(8) “Bedridden” means confined to bed because of inability to ambulate or transfer to a wheelchair even with assistance, or to sit safely in a chair or wheelchair without personal assistance or physical restraint.

(9) “Capacity” means the number of residents for which a facility has been licensed to provide residential care.

(10) “Case Manager” means an individual employed by or under contract with any agency or organization, public or private, who has the responsibility for assessing resident needs; planning services for the resident; coordinating and assisting residents with gaining access to needed medical, mental health, social, housing, educational or other services; monitoring service delivery; and evaluating the effects of service delivery.

(11) “Certified Nursing Assistant (CNA)” means an individual certified under chapter 464, Part II, F.S.

(12) “Day Care Participant” means an individual who receives services at a facility for less than 24 hours per day.

(13) “Deficiency” means an instance of non-compliance with the requirements of part II of chapter 408, F.S., part I of chapter 429, F.S., rule chapter 59A-35, F.A.C., and this rule chapter.

(14) “Direct Care Staff” means Staff in Regular Contact or Staff in Direct Contact with residents who provide personal or nursing services to residents, including administrators and managers providing such services.

(15) “Distinct Part” means designated bedrooms or apartments, bathrooms and a living area; or a separately identified wing, floor, or building that includes bedrooms or apartments, bathrooms and a living area. The distinct part may include a separate dining area, or meals may be served in another part of the facility.

(16) “Elopement” means an occurrence in which a resident leaves a facility without following facility policy and procedures.

(17) “Food Service” means the storage, preparation, service, and clean up of food intended for consumption in a facility either by facility staff or through a formal agreement that meals will be regularly catered by a third party.

(18) “Glucose Meter” or “glucometer” means a medical device that determines the approximate concentration of glucose in the blood.

(19) “Health Care Provider” means a physician or physician’s assistant licensed under chapter 458 or 459, F.S., or advanced registered nurse practitioner licensed under chapter 464, F.S.

(20) “Licensed Dietitian or Nutritionist” means a dietitian or nutritionist licensed under chapter 468, part X, F.S.

(21) “Local fire safety authority” means the authority having jurisdiction as defined in rule chapter 69A-40, F.A.C.

(22) “Long-term Care Ombudsman Program (LTCOP)” means the long-term care ombudsman program established under chapter 400, Part I, F.S.

(23) “Manager” means an individual who is authorized to perform the same functions as a facility administrator, and is responsible for the operation and maintenance of an assisted living facility while under the supervision of the administrator of that facility. A manager does not include staff authorized to perform limited administrative functions during an administrator’s temporary absence.

(24) “Mental Disorder” for the purposes of identifying a mental health resident, means schizophrenia and other psychotic disorders; affective disorders; anxiety related disorders; and personality and dissociative disorders. However, mental disorder does not include residents with a primary diagnosis of Alzheimer’s disease, other dementias, or mental retardation.

(25) “Mental Health Care Provider” means an individual, agency, or organization providing mental health services to clients of the Department of Children and Families; an individual licensed by the state to provide mental health services; or an entity employing or contracting with individuals licensed by the state to provide mental health services.

(26) “Mental Health Case Manager” means a case manager employed by or under contract to a mental health care provider to assist mental health residents residing in a facility holding a limited mental health license.

(27) “Nurse” means a licensed practical nurse (LPN), registered nurse (RN), or advanced registered nurse practitioner (ARNP) licensed under chapter 464, F.S.

(28) “Nursing Assessment” means a written review of information collected from observation and interaction with a resident, including the resident’s record and any other relevant sources of information, the analysis of the information, and recommendations for modification of the resident’s care, if warranted. The assessment must contain the signature and credential initials of the person who conducted the assessment.

(29) “Nursing Progress Notes” or “Progress Report” means a written record of nursing services, other than medication administration or the taking of vital signs, provided to each resident who receives such services in a facility with a limited nursing or extended congrate care license. The progress notes must be completed by the nurse who delivered the service; must describe the date, type, scope, amount, duration, and outcome of services that are rendered; must describe the general status of the resident’s health; must describe any deviations in the residents health; must describe any contact with the resident’s physician; and must contain the signature and credential initials of the person rendering the service.

(30) “Optional State Supplementation (OSS)” means the state program providing monthly payments to eligible residents pursuant to section 409.212, F.S., and rule chapter 65A-2, F.A.C.

(31) “Owner” means a person, partnership, association, limited liability company, or corporation, that owns or leases the facility that is licensed by the agency. The term does not include a person, partnership, association, limited liability company, or corporation that contracts only to manage or operate the facility.

(32) “Physician” means an individual licensed under chapter 458 or 459, F.S.

(33) “Pill organizer” means a container that is designed to hold solid doses of medication and is divided according to day or time increments.

(34) “Registered Dietitian” means an individual registered with the Commission on Dietetic Registration, the accrediting body of the Academy of Nutrition and Dietetics.

(35) “Respite Care” means facility-based supervision of an impaired adult for the purpose of relieving the primary caregiver.

(36) “Significant Change” means either a sudden or major shift in the behavior or mood of a resident that is inconsistent with the resident’s diagnosis, or a deterioration in the resident’s health status such as unplanned weight change, stroke, heart condition, enrollment in hospice, or stage 2, 3 or 4 pressure sore. Ordinary day-to-day fluctuations in a resident’s functioning and behavior, short-term illnesses such as colds, or the gradual deterioration in the resident’s ability to carry out the activities of daily living that accompanies the aging process are not considered significant changes.

(37) “Staff” means any individual employed by a facility, contracting with a facility to provide direct or indirect services to residents, or employed by a firm under contract with a facility to provide direct or indirect services to residents when present in the facility. The term includes volunteers performing any service that counts toward meeting any staffing requirement of this rule chapter.

(38) “Staff in Regular Contact” or “Staff in Direct Contact” mean all staff whose duties may require them to interact with residents on a daily basis.

(39) “Third Party” means any individual or business entity providing services to residents in a facility that is not staff of the facility.

(40) “Universal Precautions” are a set of precautions designed to prevent transmission of human immunodeficiency virus (HIV), hepatitis B virus (HBV), and other bloodborne pathogens when providing first aid or health care. Universal precautions require that the blood and certain body fluids of all residents be considered

potentially infectious for HIV, HBV, and other bloodborne pathogens.

(41) “Unscheduled Service Need” means a need for a personal service, nursing service, or mental health intervention that cannot be predicted in advance and that must be met promptly to ensure that the health, safety, and welfare of residents is preserved.

*Rulemaking Authority 429.41, 429.929 FS. Law Implemented 429.07, 429.075, 429.11, 429.14, 429.19, 429.41, 429.47, 429.52, 429.905 FS. History—New 9-30-92, Formerly 10A-5.0131, Amended 10-30-95, 6-2-96, 4-20-98, 11-2-98, 10-17-99, 1-9-02, 7-30-06, 4-15-10, 4-17-14, 5-10-18.*

#### **58A-5.014 Licensing and Change of Ownership.**

(1) LICENSE APPLICATION. An applicant for a standard assisted living facility license, a limited mental health license, an extended congregate care license, or a limited nursing services license may apply for licensure pursuant to the requirements of chapters 408, Part II, 429, Part I, F.S., and rule chapter 59A-35, F.A.C.

(2) CHANGE OF OWNERSHIP. In addition to the requirements for a change of ownership contained in chapter 408, part II, F.S., section 429.12, F.S., and rule chapter 59A-35, F.A.C., the following provisions relating to resident funds apply pursuant to section 429.27, F.S.:

(a) At the time of transfer of ownership, all resident funds on deposit, advance payments of resident rents, resident security deposits, and resident trust funds held by the current licensee must be transferred to the applicant. Proof of such transfer must be provided to the agency at the time of the agency survey and before the issuance of a standard license. This provision does not apply to entrance fees paid to a continuing care facility subject to the acquisition provisions in section 651.024, F.S.

(b) The transferor must provide to each resident a statement detailing the amount and type of funds held by the facility and credited to the resident.

(c) The transferee must notify each resident in writing of the manner in which the transferee is holding the resident’s funds and state the name and address of the depository where the funds are being held, the amount held, and type of funds credited.

(3) CONDITIONAL LICENSE. Except as provided in section 429.14, F.S., the agency may issue a conditional license to a facility if, at the time of license renewal the facility is found to have uncorrected violations that the facility has had an opportunity to correct. The issuance of a conditional license does not change the biennial license expiration date.

(4) OSS RESIDENT DETERMINATION. With respect to the fee per bed required for a standard license, the number of OSS recipients claimed shall be the average number per month residing in the facility during the previous license period. An additional per bed charge shall be added to the bed fee for facilities whose average number of OSS residents per month was less than the number of beds designated for OSS recipients during the previous license period.

*Rulemaking Authority 429.17, 429.27, 429.41 FS. Law Implemented 429.04, 429.07, 429.075, 429.11, 429.12, 429.17, 429.27, 429.41 FS. History—New 5-14-81, Amended 1-6-82, 5-19-83, 9-17-84, Formerly 10A-5.14, Amended 10-20-86, 6-21-88, 8-15-90, 9-30-92, Formerly 10A-5.014, Amended 10-30-95, 4-20-98, 10-17-99, 7-30-06, 4-17-14, 5-10-18.*

#### **58A-5.015 License Renewal and Conditional Licenses.**

*Rulemaking Authority 429.41 FS. Law Implemented 429.04, 429.07, 429.11, 429.14, 429.17, 429.174, 429.27, 429.275, 429.41, 429.47 FS. History—New 10-17-99, Amended 7-30-06, Repealed 3-13-14.*

#### **58A-5.016 License Requirements.**

(1) SERVICE PROHIBITION. An assisted living facility may not represent that it provides any service other than a service for which it is licensed to provide.

(2) CHANGE IN USE OF SPACE REQUIRING AGENCY CENTRAL OFFICE APPROVAL. A change in the use of space that increases or decreases a facility's capacity must not be made without prior approval from the Agency Central Office. Approval must be based on the compliance with the physical plant standards provided in rule 58A-5.023, F.A.C., as well as documentation of compliance with applicable fire safety and sanitation inspection requirements referenced in rule 58A-5.0161, F.A.C.

(3) CHANGE IN USE OF SPACE REQUIRING AGENCY FIELD OFFICE APPROVAL. A change in the use of space that involves converting an area to resident use, which has not previously been inspected for such use, must not be made without prior approval from the Agency Field Office. Approval must be based on compliance with the physical plant standards provided in rule 58A-5.023, F.A.C., as well as documentation of compliance with applicable fire safety and sanitation inspection standards referenced in rule 58A-5.0161, F.A.C.

(4) CONTIGUOUS PROPERTY. If a facility consists of more than one building, all buildings included under a single license must be on contiguous property. "Contiguous property" means property under the same ownership separated by no more than a two-lane street that traverses the property. A licensed location may be expanded to include additional contiguous property with the approval of the agency to ensure continued compliance with the requirements and standards of chapters 408, Part II, 429, Part I, F.S. and Rule Chapter 59A-35, F.A.C., and this rule chapter.

(5) PROOF OF INSPECTIONS. A copy of the annual fire safety and sanitation inspections described in rule 58A-5.0161, F.A.C., must be submitted annually to the Agency Central Office. The annual inspections must be submitted no later than 30 calendar days after the inspections. Failure to comply with this requirement may result in administrative action pursuant to chapter 408, Part II, and section 429.14, F.S., and rule chapter 59A-35, F.A.C.

(6) RESIDENTS RECEIVING STATE-FUNDED SERVICES. Upon request, the facility administrator or designee must identify residents receiving state-funded services to the agency and the department for monitoring purposes authorized by state and federal laws.

*Rulemaking Authority 429.41 FS. Law Implemented 429.41, 429.44 FS. History—New 5-15-81, Amended 1-6-82, 9-17-84, Formerly 10A-5.16, Amended 6-21-88, 9-30-92, Formerly 10A-5.016, Amended 10-30-95, 10-17-99, 7-30-06, 4-15-10, 4-17-14.*

#### **58A-5.0161 Inspection Responsibilities.**

(1) County health departments are responsible for inspecting all license applicants and licensed facilities in matters regulated by:

- (a) Rule 64E-12.004, F.A.C., and rule chapter 64E-11, F.A.C., relating to food hygiene.
- (b) Chapter 64E-12, F.A.C., relating to sanitary practices in community-based residential facilities.
- (c) Chapter 64E-16, F.A.C., relating to biomedical waste.

(2) The local authority having jurisdiction over fire safety or State Fire Marshal is responsible for inspecting all license applicants and licensed facilities in matters regulated by section 429.41, F.S., relating to uniform fire safety standards and chapter 69A-40, F.A.C., Uniform Fire Safety Standards for Assisted Living Facilities.

(3) The agency is responsible for inspecting all license applicants and licensed facilities in all other matters regulated by this rule chapter.

*Rulemaking Authority 429.41 FS. Law Implemented 429.41 FS. History—New 8-15-90, Formerly 10A-5.0161, Amended 10-30-95, 10-17-99, 3-13-14.*

#### **58A-5.0181 Admission Procedures, Appropriateness of Placement and Continued Residency Criteria.**

(1) ADMISSION CRITERIA.

(a) An individual must meet the following minimum criteria in order to be admitted to a facility holding a standard, limited nursing services, or limited mental health license:

1. Be at least 18 years of age.
2. Be free from signs and symptoms of any communicable disease that is likely to be transmitted to other residents or staff. An individual who has human immunodeficiency virus (HIV) infection may be admitted to a facility, provided that the individual would otherwise be eligible for admission according to this rule.
3. Be able to perform the activities of daily living, with supervision or assistance if necessary.
4. Be able to transfer, with assistance if necessary. The assistance of more than one person is permitted.
5. Be capable of taking medication, by either self-administration, assistance with self-administration, or administration of medication.
  - a. If the resident needs assistance with self-administration of medication, the facility must inform the resident of the professional qualifications of facility staff who will be providing this assistance. If unlicensed staff will be providing assistance with self-administration of medication, the facility must obtain written informed consent from the resident or the resident's surrogate, guardian, or attorney-in-fact.
  - b. The facility may accept a resident who requires the administration of medication if the facility employs a nurse who will provide this service or the resident, or the resident's legal representative, designee, surrogate, guardian, or attorney-in-fact, contracts with a third party licensed to provide this service to the resident.
6. Not have any special dietary needs that cannot be met by the facility.
7. Not be a danger to self or others as determined by a physician, or mental health practitioner licensed under chapter 490 or 491, F.S.
8. Not require 24-hour licensed professional mental health treatment.
9. Not be bedridden.
10. Not have any stage 3 or 4 pressure sores. A resident requiring care of a stage 2 pressure sore may be admitted provided that:
  - a. The resident either:
    - (I) Resides in a standard or limited nursing services licensed facility and contracts directly with a licensed home health agency or a nurse to provide care; or
    - (II) Resides in a limited nursing services licensed facility and care is provided by the facility pursuant to a plan of care issued by a health care provider;
  - b. The condition is documented in the resident's record and admission and discharge logs; and,
  - c. If the resident's condition fails to improve within 30 days as documented by a health care provider, the resident must be discharged from the facility.
11. Residents admitted to standard, limited nursing services, or limited mental health licensed facilities may not require any of the following nursing services:
  - a. Artificial airway management of any kind, except that of continuous positive airway pressure may be provided through the use of a CPAP or bipap machine;
  - b. Assistance with tube feeding,
  - c. Monitoring of blood gases,
  - d. Management of post-surgical drainage tubes and wound vacuum devices;
  - e. The administration of blood products in the facility; or
  - f. Treatment of surgical incisions or wounds, unless the surgical incision or wound and the underlying condition have been stabilized and a plan of care has been developed. The plan of care must be maintained in the resident's



record.

12. In addition to the nursing services listed above, residents admitted to facilities holding only standard and/or limited mental health licenses may not require any of the following nursing services:

- a. Hemodialysis and peritoneal dialysis performed in the facility;
- b. Intravenous therapy performed in the facility.

13. Not require 24-hour nursing supervision.

14. Not require skilled rehabilitative services as described in rule 59G-4.290, F.A.C.

15. Be appropriate for admission to the facility as determined by the facility administrator. The administrator must base the determination on:

- a. An assessment of the strengths, needs, and preferences of the individual;
- b. The medical examination report required by section 429.26, F.S., and subsection (2) of this rule, if available;
- c. The facility's admission policy and the services the facility is prepared to provide or arrange in order to meet resident needs. Such services may not exceed the scope of the facility's license unless specified elsewhere in this rule; and,

d. The ability of the facility to meet the uniform fire safety standards for assisted living facilities established in rule chapter 69A-40, F.A.C.

(b) A resident who otherwise meets the admission criteria for residency in a standard licensed facility, but who requires assistance with the administration and regulation of portable oxygen or assistance with routine colostomy care of stoma site flange placement, may be admitted to a facility with a standard license as long as the facility has a nurse on staff or under contract to provide the assistance or to provide training to the resident on how to perform these functions themselves.

(c) Nursing staff may not provide training to unlicensed persons, as defined in section 429.256(1)(b), F.S., to perform skilled nursing services, and may not delegate the nursing services described in this section to certified nursing assistants or unlicensed persons. This provision does not restrict a resident or a resident's representative from contracting with a licensed third party to provide the assistance if the facility is agreeable to such an arrangement and the resident otherwise meets the criteria for admission and continued residency in a facility with a standard license.

(d) An individual enrolled in and receiving hospice services may be admitted to an assisted living facility as long as the individual otherwise meets resident admission criteria.

(e) Resident admission criteria for facilities holding an extended congregate care license are described in rule 58A-5.030, F.A.C.

(2) **HEALTH ASSESSMENT.** As part of the admission criteria, an individual must undergo a face-to-face medical examination completed by a health care provider as specified in either paragraph (a) or (b) of this subsection.

(a) A medical examination completed within 60 calendar days before the individual's admission to a facility pursuant to section 429.26(4), F.S. The examination must address the following:

1. The physical and mental status of the resident, including the identification of any health-related problems and functional limitations,
2. An evaluation of whether the individual will require supervision or assistance with the activities of daily living,
3. Any nursing or therapy services required by the individual,
4. Any special diet required by the individual,
5. A list of current medications prescribed, and whether the individual will require any assistance with the



administration of medication,

6. Whether the individual has signs or symptoms of Tuberculosis, Methicillin Resistant Staphylococcus Aureus, Scabies or any other communicable disease, which are likely to be transmitted to other residents or staff,

7. A statement on the day of the examination that, in the opinion of the examining health care provider, the individual's needs can be met in an assisted living facility; and,

8. The date of the examination, and the name, signature, address, telephone number, and license number of the examining health care provider. The medical examination may be conducted by a health care provider licensed under chapter 458, 459 or 464, F.S.

(b) A medical examination completed after the resident's admission to the facility within 30 calendar days of the admission date. The examination must be recorded on AHCA Form 1823, Resident Health Assessment for Assisted Living Facilities, March 2017, which is incorporated by reference and available online at: <http://www.flrules.org/Gateway/reference.asp?No=Ref-09170>. Faxed or electronic copies of the completed form are acceptable. The form must be completed as instructed.

1. Items on the form that have been omitted by the health care provider during the examination may be obtained by the facility either orally or in writing from the health care provider.

2. Omitted information must be documented in the resident's record. Information received orally must include the name of the health care provider, the name of the facility staff recording the information, and the date the information was provided.

3. Electronic documentation may be used in place of completing the section on AHCA Form 1823 referencing Services Offered or Arranged by the Facility for the Resident. The electronic documentation must include all of the elements described in this section of AHCA Form 1823.

(c) Any information required by paragraph (a), that is not contained in the medical examination report conducted before the individual's admission to the facility must be obtained by the administrator using AHCA Form 1823 within 30 days after admission.

(d) Medical examinations of residents placed by the department, by the Department of Children and Families, or by an agency under contract with either department must be conducted within 30 days before placement in the facility and recorded on AHCA Form 1823 described in paragraph (b).

(e) An assessment that has been conducted through the Comprehensive, Assessment, Review and Evaluation for Long-Term Care Services (CARES) program may be substituted for the medical examination requirements of section 429.26, F.S. and this rule.

(f) Any orders issued by the health care provider conducting the medical examination for medications, nursing, therapeutic diets, or other services to be provided or supervised by the facility may be attached to the health assessment. A health care provider may attach a DH Form 1896, Florida Do Not Resuscitate Order Form, for residents who do not wish cardiopulmonary resuscitation to be administered in the case of cardiac or respiratory arrest.

(g) A resident placed in a facility on a temporary emergency basis by the Department of Children and Families pursuant to section 415.105 or 415.1051, F.S., is exempt from the examination requirements of this subsection for up to 30 days. However, a resident accepted for temporary emergency placement must be entered on the facility's admission and discharge log and counted in the facility census. A facility may not exceed its licensed capacity in order to accept such a resident. A medical examination must be conducted on any temporary emergency placement resident accepted for regular admission.

(3) ADMISSION PACKAGE.

(a) The facility must make available to potential residents a written statement(s) that includes the following information listed below. Providing a copy of the facility resident contract or facility brochure containing all the required information meets this requirement.

1. The facility's admission and continued residency criteria;
2. The daily, weekly or monthly charge to reside in the facility and the services, supplies, and accommodations provided by the facility for that rate;
3. Personal care services that the facility is prepared to provide to residents and additional costs to the resident, if any;
4. Nursing services that the facility is prepared to provide to residents and additional costs to the resident, if any;
5. Food service and the ability of the facility to accommodate special diets;
6. The availability of transportation and additional costs to the resident, if any;
7. Any other special services that are provided by the facility and additional cost if any;
8. Social and leisure activities generally offered by the facility;
9. Any services that the facility does not provide but will arrange for the resident and additional cost, if any;
10. The facility rules and regulations that residents must follow as described in rule 58A-5.0182, F.A.C.;
11. The facility policy concerning Do Not Resuscitate Orders pursuant to section 429.255, F.S., and rule 58A-5.0186, F.A.C., and Advance Directives pursuant to chapter 765, F.S.;
12. If the facility is licensed to provide extended congregate care, the facility's residency criteria for residents receiving extended congregate care services. The facility must also provide a description of the additional personal, supportive, and nursing services provided by the facility including additional costs and any limitations on where extended congregate care residents may reside based on the policies and procedures described in rule 58A-5.030, F.A.C.;
13. If the facility advertises that it provides special care for individuals with Alzheimer's disease and related disorders, a written description of those special services as required in section 429.177, F.S.; and,
14. The facility's resident elopement response policies and procedures.

(b) Before or at the time of admission, the resident, or the resident's responsible party, guardian, or attorney-in-fact, if applicable, must be provided with the following:

1. A copy of the resident's contract that meets the requirements of rule 58A-5.025, F.A.C.,
2. A copy of the facility statement described in paragraph (a) of this subsection, if one has not already been provided,
3. A copy of the resident's bill of rights as required by rule 58A-5.0182, F.A.C.; and,
4. A Long-Term Care Ombudsman Program brochure that includes the telephone number and address of the district office.

(c) Documents required by this subsection must be in English. If the resident is not able to read, or does not understand English and translated documents are not available, the facility must explain its policies to a family member or friend of the resident or another individual who can communicate the information to the resident.

(4) CONTINUED RESIDENCY. Except as follows in paragraphs (a) through (c) of this subsection, criteria for continued residency in any licensed facility must be the same as the criteria for admission. As part of the continued residency criteria, a resident must have a face-to-face medical examination by a health care provider at least every 3

years after the initial assessment, or after a significant change, whichever comes first. A significant change is defined in rule 58A-5.0131, F.A.C. The results of the examination must be recorded on AHCA Form 1823, which is incorporated by reference in paragraph (2)(b) of this rule and must be completed in accordance with that paragraph. Exceptions to the requirement to meet the criteria for continued residency are:

(a) The resident may be bedridden for no more than 7 consecutive days.

(b) A resident requiring care of a stage 2 pressure sore may be retained provided that:

1. The resident contracts directly with a licensed home health agency or a nurse to provide care, or the facility has a limited nursing services license and services are provided pursuant to a plan of care issued by a health care provider,
2. The condition is documented in the resident's record; and,
3. If the resident's condition fails to improve within 30 days, as documented by a health care provider, the resident must be discharged from the facility.

(c) A terminally ill resident who no longer meets the criteria for continued residency may continue to reside in the facility if the following conditions are met:

1. The resident qualifies for, is admitted to, and consents to receive services from a licensed hospice that coordinates and ensures the provision of any additional care and services that the resident may need;
2. Both the resident, or the resident's legal representative if applicable, and the facility agree to continued residency;
3. A licensed hospice, in consultation with the facility, develops and implements a interdisciplinary care plan that specifies the services being provided by hospice and those being provided by the facility; and,
4. Documentation of the requirements of this paragraph is maintained in the resident's file.

(d) The facility administrator is responsible for monitoring the continued appropriateness of placement of a resident in the facility at all times.

(e) A hospice resident that meets the qualifications of continued residency pursuant to this subsection may only receive services from the assisted living facility's staff which are within the scope of the facility's license.

(f) Assisted living facility staff may provide any nursing service permitted under the facility's license and total help with the activities of daily living for residents admitted to hospice; however, staff may not exceed the scope of their professional licensure or training.

(g) Continued residency criteria for facilities holding an extended congregate care license are described in Rule 58A-5.030, F.A.C.

(5) DISCHARGE. If the resident no longer meets the criteria for continued residency, or the facility is unable to meet the resident's needs, as determined by the facility administrator or health care provider, the resident must be discharged in accordance with section 429.28, F.S.

*Rulemaking Authority 429.07, 429.41 FS. Law Implemented 429.07, 429.26, 429.28, 429.41 FS. History--New 9-17-84, Formerly 10A-5.181, Amended 10-20-86, 6-21-88, 8-15-90, 9-30-92, Formerly 10A-5.0181, Amended 10-30-95, 6-2-96, 10-17-99, 7-30-06, 10-9-06, 4-15-10, 10-14-10, 4-17-14, 5-10-18.*

#### **58A-5.0182 Resident Care Standards.**

An assisted living facility must provide care and services appropriate to the needs of residents accepted for admission to the facility.

(1) SUPERVISION. Facilities must offer personal supervision as appropriate for each resident, including the following:

(a) Monitoring of the quantity and quality of resident diets in accordance with rule 58A-5.020, F.A.C.

(b) Daily observation by designated staff of the activities of the resident while on the premises, and awareness of the general health, safety, and physical and emotional well-being of the resident.

(c) Maintaining a general awareness of the resident's whereabouts. The resident may travel independently in the community.

(d) Contacting the resident's health care provider and other appropriate party such as the resident's family, guardian, health care surrogate, or case manager if the resident exhibits a significant change.

(e) Contacting the resident's family, guardian, health care surrogate, or case manager if the resident is discharged or moves out.

(f) Maintaining a written record, updated as needed, of any significant changes, any illnesses that resulted in medical attention, changes in the method of medication administration, or other changes that resulted in the provision of additional services.

(2) SOCIAL AND LEISURE ACTIVITIES. Residents shall be encouraged to participate in social, recreational, educational and other activities within the facility and the community.

(a) The facility must provide an ongoing activities program. The program must provide diversified individual and group activities in keeping with each resident's needs, abilities, and interests.

(b) The facility must consult with the residents in selecting, planning, and scheduling activities. The facility must demonstrate residents' participation through one or more of the following methods: resident meetings, committees, a resident council, a monitored suggestion box, group discussions, questionnaires, or any other form of communication appropriate to the size of the facility.

(c) Scheduled activities must be available at least 6 days a week for a total of not less than 12 hours per week. Watching television is not an activity for the purpose of meeting the 12 hours per week of scheduled activities unless the television program is a special one-time event of special interest to residents of the facility. A facility whose residents choose to attend day programs conducted at adult day care centers, senior centers, mental health centers, or other day programs may count those attendance hours towards the required 12 hours per week of scheduled activities. An activities calendar must be posted in common areas where residents normally congregate.

(d) If residents assist in planning a special activity such as an outing, seasonal festivity, or an excursion, up to 3 hours may be counted toward the required activity time.

(3) ARRANGEMENT FOR HEALTH CARE. In order to facilitate resident access to health care as needed, the facility must:

(a) Assist residents in making appointments and remind residents about scheduled appointments for medical, dental, nursing, or mental health services.

(b) Provide transportation to needed medical, dental, nursing or mental health services, or arrange for transportation through family and friends, volunteers, taxi cabs, public buses, and agencies providing transportation.

(c) The facility may not require residents to receive services from a particular health care provider.

(4) ACTIVITIES OF DAILY LIVING. Facilities must offer supervision of or assistance with activities of daily living as needed by each resident. Residents should be encouraged to be as independent as possible in performing activities of daily living.

(5) NURSING SERVICES.

(a) Pursuant to section 429.255, F.S., the facility may employ or contract with a nurse to:

1. Take or supervise the taking of vital signs,

2. Manage pill-organizers and administer medications as described in rule 58A-5.0185, F.A.C.,
3. Give prepackaged enemas pursuant to a physician's order; and,
4. Maintain nursing progress notes.

(b) Pursuant to section 429.255(2), F.S., the nursing services listed in paragraph (a), may also be delivered in the facility by family members or friends of the resident provided the family member or friend does not receive compensation for such services.

(6) RESIDENT RIGHTS AND FACILITY PROCEDURES.

(a) A copy of the Resident Bill of Rights as described in section 429.28, F.S., or a summary provided by the Long-Term Care Ombudsman Program must be posted in full view in a freely accessible resident area, and included in the admission package provided pursuant to rule 58A-5.0181, F.A.C.

(b) In accordance with section 429.28, F.S., the facility must have a written grievance procedure for receiving and responding to resident complaints and a written procedure to allow residents to recommend changes to facility policies and procedures. The facility must be able to demonstrate that such procedure is implemented upon receipt of a complaint.

(c) The telephone number for lodging complaints against a facility or facility staff must be posted in full view in a common area accessible to all residents. The telephone numbers are: the Long-Term Care Ombudsman Program, 1(888)831-0404; Disability Rights Florida, 1(800)342-0823; the Agency Consumer Hotline 1(888)419-3456, and the statewide toll-free telephone number of the Florida Abuse Hotline, 1(800)96-ABUSE or 1(800)962-2873. The telephone numbers must be posted in close proximity to a telephone accessible by residents and the text must be a minimum of 14-point font.

(d) The facility must have a written statement of its house rules and procedures that must be included in the admission package provided pursuant to rule 58A-5.0181, F.A.C. The rules and procedures must at a minimum address the facility's policies regarding:

1. Resident responsibilities;
2. Alcohol and tobacco use;
3. Medication storage;
4. Resident elopement;
5. Reporting resident abuse, neglect, and exploitation;
6. Administrative and housekeeping schedules and requirements;
7. Infection control, sanitation, and universal precautions; and,
8. The requirements for coordinating the delivery of services to residents by third party providers.

(e) Residents may not be required to perform any work in the facility without compensation. Residents may be required to clean their own sleeping areas or apartments if the facility rules or the facility contract includes such a requirement. If a resident is employed by the facility, the resident must be compensated in compliance with state and federal wage laws.

(f) The facility must provide residents with convenient access to a telephone to facilitate the resident's right to unrestricted and private communication, pursuant to section 429.28(1)(d), F.S. The facility must allow unidentified telephone calls to residents. For facilities with a licensed capacity of 17 or more residents in which residents do not have private telephones, there must be, at a minimum, a readily accessible telephone on each floor of each building where residents reside.

(g) In addition to the requirements of section 429.41(1)(k), F.S., the use of physical restraints by a facility on a resident must be reviewed by the resident's physician annually. Any device, including half-bed rails, which the resident chooses to use and can remove or avoid without assistance, is not considered a physical restraint.

#### (7) THIRD PARTY SERVICES.

(a) Nothing in this rule chapter is intended to prohibit a resident or the resident's representative from independently arranging, contracting, and paying for services provided by a third party of the resident's choice, including a licensed home health agency or private nurse, or receiving services through an out-patient clinic, provided the resident meets the criteria for admission and continued residency and the resident complies with the facility's policy relating to the delivery of services in the facility by third parties. The facility's policies must require the third party to coordinate with the facility regarding the resident's condition and the services being provided.

(b) When residents require or arrange for services from a third party provider, the facility administrator or designee must allow for the receipt of those services, provided that the resident meets the criteria for admission and continued residency. The facility, when requested by residents or representatives, must coordinate with the provider to facilitate the receipt of care and services provided to meet the particular resident's needs.

(c) If residents accept assistance from the facility in arranging and coordinating third party services, the facility's assistance does not represent a guarantee that third party services will be received. If the facility's efforts to make arrangements for third party services are unsuccessful or declined by residents, the facility must include documentation in the residents' record explaining why its efforts were unsuccessful. This documentation will serve to demonstrate its compliance with this subsection.

#### (8) ELOPEMENT STANDARDS.

(a) Residents Assessed at Risk for Elopement. All residents assessed at risk for elopement or with any history of elopement must be identified so staff can be alerted to their needs for support and supervision. All residents must be assessed for risk of elopement by a health care provider or a mental health care provider within 30 calendar days of being admitted to a facility. If the resident has had a health assessment performed prior to admission pursuant to paragraph 58A-5.0181(2)(a), F.A.C., this requirement is satisfied. A resident placed in a facility on a temporary emergency basis by the Department of Children and Families pursuant to section 415.105 or 415.1051, F.S., is exempt from this requirement for up to 30 days.

1. As part of its resident elopement response policies and procedures, the facility must make, at a minimum, a daily effort to determine that at risk residents have identification on their persons that includes their name and the facility's name, address, and telephone number. Staff trained pursuant to paragraph 58A-5.0191(10)(a) or (c), F.A.C., must be generally aware of the location of all residents assessed at high risk for elopement at all times.

2. The facility must have a photo identification of at risk residents on file that is accessible to all facility staff and law enforcement as necessary. The facility's file must contain the resident's photo identification upon admission or upon being assessed at risk for elopement subsequent to admission. The photo identification may be provided by the facility, the resident, or the resident's representative.

(b) Facility Resident Elopement Response Policies and Procedures. The facility must develop detailed written policies and procedures for responding to a resident elopement. At a minimum, the policies and procedures must provide for:

1. An immediate search of the facility and premises,
2. The identification of staff responsible for implementing each part of the elopement response policies and

procedures, including specific duties and responsibilities,

3. The identification of staff responsible for contacting law enforcement, the resident's family, guardian, health care surrogate, and case manager if the resident is not located pursuant to subparagraph (8)(b)1.; and,

4. The continued care of all residents within the facility in the event of an elopement.

(c) Facility Resident Elopement Drills. The facility must conduct and document resident elopement drills pursuant to sections 429.41(1)(a)3. and 429.41(1)(l), F.S.

(9) OTHER STANDARDS. Additional care standards for residents residing in a facility holding a limited mental health, extended congregate care or limited nursing services license are provided in rules 58A-5.029, 58A-5.030 and 58A-5.031, F.A.C., respectively.

*Rulemaking Authority 429.41 FS. Law Implemented 429.255, 429.26, 429.28, 429.41 FS. History—New 9-17-84, Formerly 10A-5.182, Amended 10-20-86, 6-21-88, 8-15-90, 9-30-92, Formerly 10A-5.0182, Amended 10-30-95, 4-20-98, 11-2-98, 10-17-99, 7-30-06, 10-9-06, 4-15-10, 4-17-14, 5-10-18.*

#### **58A-5.0183 Reports of Abuse in Facilities.**

*Rulemaking Authority 400.441 FS. Law Implemented 400.4174 FS. History—New 8-15-90, Formerly 10A-5.0183, Repealed 10-30-95.*

#### **58A-5.0184 Marketing; Rebates Prohibited.**

*Rulemaking Authority 400.441 FS. Law Implemented 400.4195, 400.441, 400.447 FS. History—New 8-15-90, Amended 9-30-92, Formerly 10A-5.0184, Amended 10-30-95, 6-2-96, Repealed 10-17-99.*

#### **58A-5.0185 Medication Practices.**

Pursuant to sections 429.255 and 429.256, F.S., and this rule, licensed facilities may assist with the self-administration or administration of medications to residents in a facility. A resident may not be compelled to take medications but may be counseled in accordance with this rule.

##### **(1) SELF ADMINISTERED MEDICATIONS.**

(a) Residents who are capable of self-administering their medications without assistance must be encouraged and allowed to do so.

(b) If facility staff observes health changes that could reasonably be attributed to the improper self-administration of medication, staff must consult with the resident concerning any problems the resident may be experiencing in self-administering the medications. The consultation should describe the services offered by the facility that aid the resident with medication administration through the use of a pill organizer, through providing assistance with self-administration of medications, or through administering medications. The facility must contact the resident's health care provider when observable health changes occur that may be attributed to the resident's medications. The facility must document such contacts in the resident's records.

##### **(2) PILL ORGANIZERS.**

(a) Only a resident who self-administers medications may maintain a pill organizer.

(b) Unlicensed staff may not provide assistance with the contents of pill organizers.

(c) A nurse may manage a pill organizer to be used only by residents who self-administer medications. The nurse is responsible for instructing the resident in the proper use of the pill organizer. The nurse must manage the pill organizer in the following manner:

1. Obtain the labeled medication container from the storage area or the resident,

2. Transfer the medication from the original container into a pill organizer, labeled with the resident's name, according to the day and time increments as prescribed,



3. Return the medication container to the storage area or resident; and,
4. Document the date and time the pill organizer was filled in the resident's record.

(d) If there is a determination that the resident is not taking medications as prescribed after the medicinal benefits are explained, it must be noted in the resident's record and the facility must consult with the resident concerning providing assistance with self-administration or the administration of medications if such services are offered by the facility. The facility must contact the resident's health care provider regarding questions, concerns, or observations relating to the resident's medications. Such communication must be documented in the resident's record.

(3) ASSISTANCE WITH SELF-ADMINISTRATION.

(a) Any unlicensed person providing assistance with self-administration of medication must be 18 years of age or older, trained to assist with self-administered medication pursuant to the training requirements of rule 58A-5.0191, F.A.C., and must be available to assist residents with self-administered medications in accordance with procedures described in section 429.256, F.S. and this rule.

(b) In addition to the specifications of section 429.256(3), F.S., assistance with self-administration of medication includes, in the presence of the resident, reading the medication label aloud and verbally prompting a resident to take medications as prescribed.

(c) In order to facilitate assistance with self-administration, trained staff may prepare and make available such items as water, juice, cups, and spoons. Trained staff may also return unused doses to the medication container. Medication, which appears to have been contaminated, must not be returned to the container.

(d) Trained staff must observe the resident take the medication. Any concerns about the resident's reaction to the medication or suspected noncompliance must be reported to the resident's health care provider and documented in the resident's record.

(e) When a resident who receives assistance with medication is away from the facility and from facility staff, the following options are available to enable the resident to take medication as prescribed:

1. The health care provider may prescribe a medication schedule that coincides with the resident's presence in the facility,
2. The medication container may be given to the resident, a friend, or family member upon leaving the facility, with this fact noted in the resident's medication record,
3. The medication may be transferred to a pill organizer pursuant to the requirements of subsection (2), and given to the resident, a friend, or family member upon leaving the facility, with this fact noted in the resident's medication record, or
4. Medications may be separately prescribed and dispensed in an easier to use form, such as unit dose packaging.

(f) Assistance with self-administration of medication does not include the activities detailed in section 429.256(4), F.S.

1. As used in section 429.256(4)(g), F.S., the term "competent resident" means that the resident is cognizant of when a medication is required and understands the purpose for taking the medication.
2. As used in section 429.256(4)(h), F.S., the terms "judgment" and "discretion" mean interpreting vital signs and evaluating or assessing a resident's condition.

(g) All trained staff must adhere to the facility's infection control policy and procedures when assisting with the self-administration of medication.

#### (4) MEDICATION ADMINISTRATION.

(a) For facilities that provide medication administration, a staff member licensed to administer medications must be available to administer medications in accordance with a health care provider's order or prescription label.

(b) Unusual reactions to the medication or a significant change in the resident's health or behavior that may be caused by the medication must be documented in the resident's record and reported immediately to the resident's health care provider. The contact with the health care provider must also be documented in the resident's record.

(c) Medication administration includes conducting any examination or other procedure necessary for the proper administration of medication that the resident cannot conduct personally and that can be performed by licensed staff.

(d) A facility that performs clinical laboratory tests for residents, including blood glucose testing, must be in compliance with the federal Clinical Laboratory Improvement Amendments of 1988 (CLIA) and chapter 483, Part I, F.S. A valid copy of the State Clinical Laboratory License, if required, and the federal CLIA Certificate must be maintained in the facility. A state license or federal CLIA certificate is not required if residents perform the test themselves or if a third party assists residents in performing the test. The facility is not required to maintain a State Clinical Laboratory License or a federal CLIA Certificate if facility staff assist residents in performing clinical laboratory testing with the residents' equipment. Information about the State Clinical Laboratory License and federal CLIA Certificate is available from the Laboratory Unit, Agency for Health Care Administration, 2727 Mahan Drive, Mail Stop 32, Tallahassee, FL 32308; telephone (850)412-4500.

#### (5) MEDICATION RECORDS.

(a) For residents who use a pill organizer managed in subsection (2), the facility must keep either the original labeled medication container; or a medication listing with the prescription number, the name and address of the issuing pharmacy, the health care provider's name, the resident's name, the date dispensed, the name and strength of the drug, and the directions for use.

(b) The facility must maintain a daily medication observation record for each resident who receives assistance with self-administration of medications or medication administration. A medication observation record must be immediately updated each time the medication is offered or administered and include:

1. The name of the resident and any known allergies the resident may have;
2. The name of the resident's health care provider and the health care provider's telephone number;
3. The name, strength, and directions for use of each medication; and,
4. A chart for recording each time the medication is taken, any missed dosages, refusals to take medication as prescribed, or medication errors.

(c) For medications that serve as chemical restraints, the facility must, pursuant to section 429.41, F.S., maintain a record of the prescribing physician's annual evaluation of the use of the medication.

#### (6) MEDICATION STORAGE AND DISPOSAL.

(a) In order to accommodate the needs and preferences of residents and to encourage residents to remain as independent as possible, residents may keep their medications, both prescription and over-the-counter, in their possession both on or off the facility premises. Residents may also store their medication in their rooms or apartments if either the room is kept locked when residents are absent or the medication is stored in a secure place that is out of sight of other residents.

(b) Both prescription and over-the-counter medications for residents must be centrally stored if:

1. The facility administers the medication;

2. The resident requests central storage. The facility must maintain a list of all medications being stored pursuant to such a request;

3. The medication is determined and documented by the health care provider to be hazardous if kept in the personal possession of the person for whom it is prescribed;

4. The resident fails to maintain the medication in a safe manner as described in this paragraph;

5. The facility determines that, because of physical arrangements and the conditions or habits of residents, the personal possession of medication by a resident poses a safety hazard to other residents, or

6. The facility's rules and regulations require central storage of medication and that policy has been provided to the resident before admission as required in rule 58A-5.0181, F.A.C.

(c) Centrally stored medications must be:

1. Kept in a locked cabinet; locked cart; or other locked storage receptacle, room, or area at all times;

2. Located in an area free of dampness and abnormal temperature, except that a medication requiring refrigeration must be kept refrigerated. Refrigerated medications must be secured by being kept in a locked container within the refrigerator, by keeping the refrigerator locked, or by keeping the area in which the refrigerator is located locked;

3. Accessible to staff responsible for filling pill-organizers, assisting with self-administration of medication, or administering medication. Such staff must have ready access to keys or codes to the medication storage areas at all times; and,

4. Kept separately from the medications of other residents and properly closed or sealed.

(d) Medication that has been discontinued but has not expired must be returned to the resident or the resident's representative, as appropriate, or may be centrally stored by the facility for future use by the resident at the resident's request. If centrally stored by the facility, the discontinued medication must be stored separately from medication in current use, and the area in which it is stored must be marked "discontinued medication." Such medication may be reused if prescribed by the resident's health care provider.

(e) When a resident's stay in the facility has ended, the administrator must return all medications to the resident, the resident's family, or the resident's guardian unless otherwise prohibited by law. If, after notification and waiting at least 15 days, the resident's medications are still at the facility, the medications are considered abandoned and may be disposed of in accordance with paragraph (f).

(f) Medications that have been abandoned or have expired must be disposed of within 30 days of being determined abandoned or expired and the disposal must be documented in the resident's record. The medication may be taken to a pharmacist for disposal or may be destroyed by the administrator or designee with one witness.

(g) Facilities that hold a Special-ALF permit issued by the Board of Pharmacy may return dispensed medicinal drugs to the dispensing pharmacy pursuant to rule 64B16-28.870, F.A.C.

#### (7) MEDICATION LABELING AND ORDERS.

(a) The facility may not store prescription drugs for self-administration, assistance with self-administration, or administration unless they are properly labeled and dispensed in accordance with chapters 465 and 499, F.S., and rule 64B16-28.108, F.A.C. If a customized patient medication package is prepared for a resident, and separated into individual medicinal drug containers, then the following information must be recorded on each individual container:

1. The resident's name; and,

2. The identification of each medicinal drug in the container.

(b) Except with respect to the use of pill organizers as described in subsection (2), no individual other than a

pharmacist may transfer medications from one storage container to another.

(c) If the directions for use are “as needed” or “as directed,” the health care provider must be contacted and requested to provide revised instructions. For an “as needed” prescription, the circumstances under which it would be appropriate for the resident to request the medication and any limitations must be specified; for example, “as needed for pain, not to exceed 4 tablets per day.” The revised instructions, including the date they were obtained from the health care provider and the signature of the staff who obtained them, must be noted in the medication record, or a revised label must be obtained from the pharmacist.

(d) Any change in directions for use of a medication that the facility is administering or providing assistance with self-administration must be accompanied by a written, faxed, or electronic copy of a medication order issued and signed by the resident’s health care provider. The new directions must promptly be recorded in the resident’s medication observation record. The facility may then obtain a revised label from the pharmacist or place an “alert” label on the medication container that directs staff to examine the revised directions for use in the medication observation record.

(e) A nurse may take a medication order by telephone. Such order must be promptly documented in the resident’s medication observation record. The facility must obtain a written medication order from the health care provider within 10 working days. A faxed or electronic copy of a signed order is acceptable.

(f) The facility must make every reasonable effort to ensure that prescriptions for residents who receive assistance with self-administration of medication or medication administration are filled or refilled in a timely manner.

(g) Pursuant to section 465.0276(5), F.S., and rule 61N-1.006, F.A.C., sample or complimentary prescription drugs that are dispensed by a health care provider, must be kept in their original manufacturer’s packaging, which must include the practitioner’s name, the resident’s name for whom they were dispensed, and the date they were dispensed. If the sample or complimentary prescription drugs are not dispensed in the manufacturer’s labeled package, they must be kept in a container that bears a label containing the following:

1. Practitioner’s name,
2. Resident’s name,
3. Date dispensed,
4. Name and strength of the drug,
5. Directions for use; and,
6. Expiration date.

(h) Pursuant to section 465.0276(2)(c), F.S., before dispensing any sample or complimentary prescription drug, the resident’s health care provider must provide the resident with a written prescription, or a faxed or electronic copy of such order.

(8) OVER THE COUNTER (OTC) PRODUCTS. For purposes of this subsection, the term over the counter includes, but is not limited to, over the counter medications, vitamins, nutritional supplements and nutraceuticals, hereafter referred to as OTC products, that can be sold without a prescription.

(a) A facility may keep a stock supply of OTC products for multiple resident use. When providing any OTC product that is kept by the facility as a stock supply to a resident, the staff member providing the medication must record the name and amount of the OTC product provided in the resident’s medication observation record. All OTC products kept as a stock supply must be stored in a locked container or secure room in a central location within the facility and must be labeled with the medication’s name, the date of purchase, and with a notice that the medication is

part of the facility's stock supply.

(b) OTC products, including those prescribed by a health care provider but excluding those kept as a stock supply by the facility, must be labeled with the resident's name and the manufacturer's label with directions for use, or the health care provider's directions for use. No other labeling requirements are required.

(c) Residents or their representatives may purchase OTC products from an establishment of their choice.

(d) A health care provider's order is required when a nurse provides assistance with self-administration or administration of OTC products. When an order for an OTC product exists, the order must meet the requirements of paragraphs (b) and (c) of this subsection. A health care provider's order for OTC products is not required when a resident self-administers his or her medications, or when unlicensed staff provides assistance with self-administration of medications.

*Rulemaking Authority 429.256, 429.41 FS. Law Implemented 429.255, 429.256, 429.41 FS. History—New 10-17-99, Amended 7-30-06, 4-15-10, 10-14-10, 3-13-14, 5-10-18.*

### **58A-5.0186 Do Not Resuscitate Orders (DNROs).**

#### **(1) POLICIES AND PROCEDURES.**

(a) Each assisted living facility must have written policies and procedures that explain its implementation of state laws and rules relative to Do Not Resuscitate Orders (DNROs). An assisted living facility may not require execution of a DNRO as a condition of admission or treatment. The assisted living facility must provide the following to each resident, or resident's representative, at the time of admission:

1. Form SCHS-4-2006, "Health Care Advance Directives – The Patient's Right to Decide," April 2006, or with a copy of some other substantially similar document, which incorporates information regarding advance directives included in chapter 765, F.S. Form SCHS-4-2006 is available from the Agency for Health Care Administration, 2727 Mahan Drive, Mail Stop 34, Tallahassee, FL 32308 or the agency's website at: [http://ahca.myflorida.com/MCHQ/Health\\_Facility\\_Regulation/HC\\_Advance\\_Directives/docs/adv\\_dir.pdf](http://ahca.myflorida.com/MCHQ/Health_Facility_Regulation/HC_Advance_Directives/docs/adv_dir.pdf); and,

2. DH Form 1896, Florida Do Not Resuscitate Order Form, December, 2004, which is hereby incorporated by reference. This form may be obtained by calling the Department of Health's toll free number 1(800)226-1911, extension 2780 or online at: <http://www.flrules.org/Gateway/reference.asp?No=Ref-04005>.

(b) There must be documentation in the resident's record indicating whether a DH Form 1896 has been executed. If a DH Form 1896 has been executed, a yellow copy of that document must be made a part of the resident's record. If the assisted living facility does not receive a copy of a resident's executed DH Form 1896, the assisted living facility must document in the resident's record that it has requested a copy.

(c) The executed DH Form 1896 must be readily available to medical staff in the event of an emergency.

(2) LICENSE REVOCATION. An assisted living facility's license is subject to revocation pursuant to section 408.815, F.S., if, as a condition of treatment or admission, the facility requires an individual to execute or waive DH Form 1896.

(3) DNRO PROCEDURES. Pursuant to section 429.255, F.S., an assisted living facility must honor a properly executed DH Form 1896 as follows:

(a) In the event a resident experiences cardiac or pulmonary arrest, staff trained in cardiopulmonary resuscitation (CPR) or a health care provider present in the facility, may withhold cardiopulmonary resuscitation (artificial ventilation, cardiac compression, endotracheal intubation and defibrillation).

(b) In the event a resident is receiving hospice services and experiences cardiac or pulmonary arrest, facility staff must immediately contact hospice staff. The hospice procedures take precedence over those of the assisted living

facility.

*Rulemaking Authority 429.255 FS. Law Implemented 429.255 FS. History--New 4-15-10, Amended 4-17-14.*

### **58A-5.019 Staffing Standards.**

(1) ADMINISTRATORS. Every facility must be under the supervision of an administrator who is responsible for the operation and maintenance of the facility including the management of all staff and the provision of appropriate care to all residents as required by chapters 408, part II, 429, part I, F.S., and rule chapter 59A-35, F.A.C., and this rule chapter.

(a) An administrator must:

1. Be at least 21 years of age;
2. If employed on or after October 30, 1995, have, at a minimum, a high school diploma or G.E.D.;
3. Be in compliance with Level 2 background screening requirements pursuant to sections 408.809 and 429.174, F.S.;

4. Complete the core training and core competency test requirements pursuant to rule 58A-5.0191, F.A.C., no later than 90 days after becoming employed as a facility administrator. Administrators who attended core training prior to July 1, 1997, are not required to take the competency test unless specified elsewhere in this rule; and,

5. Satisfy the continuing education requirements pursuant to rule 58A-5.0191, F.A.C. Administrators who are not in compliance with these requirements must retake the core training and core competency test requirements in effect on the date the non-compliance is discovered by the agency or the department.

(b) In the event of extenuating circumstances, such as the death of a facility administrator, the agency may permit an individual who otherwise has not satisfied the training requirements of subparagraphs (1)(a)4. of this rule, to temporarily serve as the facility administrator for a period not to exceed 90 days. During the 90 day period, the individual temporarily serving as facility administrator must:

1. Complete the core training and core competency test requirements pursuant to rule 58A-5.0191, F.A.C.; and,
2. Complete all additional training requirements if the facility maintains licensure as an extended congregate care or limited mental health facility.

(c) Administrators may supervise a maximum of either three assisted living facilities or a group of facilities on a single campus providing housing and health care. Administrators who supervise more than one facility must appoint in writing a separate manager for each facility. However, an administrator supervising a maximum of three assisted living facilities, each licensed for 16 or fewer beds and all within a 15 mile radius of each other, is only required to appoint two managers to assist in the operation and maintenance of those facilities.

(d) An individual serving as a manager must satisfy the same qualifications, background screening, core training and competency test requirements, and continuing education requirements as an administrator pursuant to paragraph (1)(a) of this rule. Managers who attended the core training program prior to April 20, 1998, are not required to take the competency test unless specified elsewhere in this rule. In addition, a manager may not serve as a manager of more than a single facility, except as provided in paragraph (1)(c) of this rule, and may not simultaneously serve as an administrator of any other facility.

(e) Pursuant to section 429.176, F.S., facility owners must notify the Agency Central Office within 10 days of a change in facility administrator on the Notification of Change of Administrator form, AHCA Form 3180-1006, June 2016, which is incorporated by reference and available online at: <http://www.flrules.org/Gateway/reference.asp?No=Ref-09393>.

(2) STAFF.

(a) Within 30 days after beginning employment, newly hired staff must submit a written statement from a health care provider documenting that the individual does not have any signs or symptoms of communicable disease. The examination performed by the health care provider must have been conducted no earlier than 6 months before submission of the statement. Newly hired staff does not include an employee transferring without a break in service from one facility to another when the facility is under the same management or ownership.

1. Evidence of a negative tuberculosis examination must be documented on an annual basis. Documentation provided by the Florida Department of Health or a licensed health care provider certifying that there is a shortage of tuberculosis testing materials satisfies the annual tuberculosis examination requirement. An individual with a positive tuberculosis test must submit a health care provider's statement that the individual does not constitute a risk of communicating tuberculosis.

2. If any staff member has, or is suspected of having, a communicable disease, such individual must be immediately removed from duties until a written statement is submitted from a health care provider indicating that the individual does not constitute a risk of transmitting a communicable disease.

(b) Staff must be qualified to perform their assigned duties consistent with their level of education, training, preparation, and experience. Staff providing services requiring licensing or certification must be appropriately licensed or certified. All staff must exercise their responsibilities, consistent with their qualifications, to observe residents, to document observations on the appropriate resident's record, and to report the observations to the resident's health care provider in accordance with this rule chapter.

(c) All staff must comply with the training requirements of rule 58A-5.0191, F.A.C.

(d) An assisted living facility contracting to provide services to residents must ensure that individuals providing services are qualified to perform their assigned duties in accordance with this rule chapter. The contract between the facility and the staffing agency or contractor must specifically describe the services the staffing agency or contractor will provide to residents.

(e) For facilities with a licensed capacity of 17 or more residents, the facility must:

1. Develop a written job description for each staff position and provide a copy of the job description to each staff member; and,

2. Maintain time sheets for all staff.

(f) Level 2 background screening must be conducted for staff, including staff contracted by the facility to provide services to residents, pursuant to sections 408.809 and 429.174, F.S.



(3) STAFFING STANDARDS.

(a) Minimum staffing:

1. Facilities must maintain the following minimum staff hours per week:

Number of Residents, Day Care Participants, and Respite Care Residents	Staff Hours/Week
0-5	168
6-15	212
16- 25	253
26-35	294
36-45	335
46-55	375
56- 65	416
66-75	457
76-85	498
86-95	539

For every 20 total combined residents, day care participants, and respite care residents over 95 add 42 staff hours per week.

2. Independent living residents, as referenced in subsection 58A-5.024(3), F.A.C., who occupy beds included within the licensed capacity of an assisted living facility but do not receive personal, limited nursing, or extended congregate care services, are not counted as residents for purposes of computing minimum staff hours.

3. At least one staff member who has access to facility and resident records in case of an emergency must be in the facility at all times when residents are in the facility. Residents serving as paid or volunteer staff may not be left solely in charge of other residents while the facility administrator, manager or other staff are absent from the facility.

4. In facilities with 17 or more residents, there must be at least one staff member awake at all hours of the day and night.

5. A staff member who has completed courses in First Aid and Cardiopulmonary Resuscitation (CPR) and holds a currently valid card documenting completion of such courses must be in the facility at all times.

a. Documentation of attendance at First Aid or CPR courses pursuant to subsection 58A-5.0191(5), F.A.C., satisfies this requirement.

b. A nurse is considered as having met the course requirements for First Aid. An emergency medical technician or paramedic currently certified under chapter 401, part III, F.S., is considered as having met the course requirements for both First Aid and CPR.

6. During periods of temporary absence of the administrator or manager of more than 48 hours when residents are on the premises, a staff member who is at least 21 years of age must be physically present and designated in writing to be in charge of the facility. No staff member shall be in charge of a facility for a consecutive period of 21 days or more, or for a total of 60 days within a calendar year, without being an administrator or manager.

7. Staff whose duties are exclusively building or grounds maintenance, clerical, or food preparation do not count towards meeting the minimum staffing hours requirement.

8. The administrator or manager's time may be counted for the purpose of meeting the required staffing hours, provided the administrator or manager is actively involved in the day-to-day operation of the facility, including making decisions and providing supervision for all aspects of resident care, and is listed on the facility's staffing schedule.

9. Only on-the-job staff may be counted in meeting the minimum staffing hours. Vacant positions or absent staff may not be counted.

(b) Notwithstanding the minimum staffing requirements specified in paragraph (a), all facilities, including those composed of apartments, must have enough qualified staff to provide resident supervision, and to provide or arrange for resident services in accordance with the residents' scheduled and unscheduled service needs, resident contracts, and resident care standards as described in rule 58A-5.0182, F.A.C.

(c) The facility must maintain a written work schedule that reflects its 24-hour staffing pattern for a given time period. Upon request, the facility must make the daily work schedules of direct care staff available to residents or their representatives.

(d) The facility must provide staff immediately when the agency determines that the requirements of paragraph (a) are not met. The facility must immediately increase staff above the minimum levels established in paragraph (a), if the agency determines that adequate supervision and care are not being provided to residents, resident care standards described in rule 58A-5.0182, F.A.C., are not being met, or that the facility is failing to meet the terms of residents' contracts. The agency will consult with the facility administrator and residents regarding any determination that additional staff is required. Based on the recommendations of the local fire safety authority, the agency may require additional staff when the facility fails to meet the fire safety standards described in rule chapter 69A-40, F.A.C., until such time as the local fire safety authority informs the agency that fire safety requirements are being met.

1. When additional staff is required above the minimum, the agency will require the submission of a corrective action plan within the time specified in the notification indicating how the increased staffing is to be achieved to meet resident service needs. The plan will be reviewed by the agency to determine if it sufficiently increases the staffing levels to meet resident needs.

2. When the facility can demonstrate to the agency that resident needs are being met, or that resident needs can be met without increased staffing, the agency may modify staffing requirements for the facility and the facility will no longer be required to maintain a plan with the agency.

(e) Facilities that are co-located with a nursing home may use shared staffing provided that staff hours are only counted once for the purpose of meeting either assisted living facility or nursing home minimum staffing ratios.

(f) Facilities holding a limited mental health, extended congregate care, or limited nursing services license must also comply with the staffing requirements of rules 58A-5.029, 58A-5.030 or 58A-5.031, F.A.C., respectively.

*Rulemaking Authority 429.41, 429.52, 429.929 FS. Law Implemented 429.174, 429.176, 429.41, 429.52, 429.905 FS. History—New 5-14-81, Amended 1-6-82, 9-17-84, Formerly 10A-5.19, Amended 10-20-86, 6-21-88, 8-15-90, 9-30-92, Formerly 10A-5.019, Amended 10-30-95, 4-20-98, 11-2-98, 10-17-99, 7-30-06, 4-15-10, 4-17-14, 5-10-18.*

#### **58A-5.0191 Staff Training Requirements and Competency Test.**

##### **(1) ASSISTED LIVING FACILITY CORE TRAINING REQUIREMENTS AND COMPETENCY TEST.**

(a) The assisted living facility core training requirements established by the department pursuant to section 429.52, F.S., shall consist of a minimum of 26 hours of training plus a competency test.

(b) Administrators and managers must successfully complete the assisted living facility core training requirements within 3 months from the date of becoming a facility administrator or manager. Successful completion of the core training requirements includes passing the competency test. The minimum passing score for the competency test is 75%. Administrators who have attended core training prior to July 1, 1997, and managers who attended the core training program prior to April 20, 1998, shall not be required to take the competency test. Administrators licensed as nursing home administrators in accordance with chapter 468, Part II, F.S., are exempt from this requirement.

(c) Administrators and managers shall participate in 12 hours of continuing education in topics related to assisted living every 2 years.

(d) A newly hired administrator or manager who has successfully completed the assisted living facility core training and continuing education requirements, shall not be required to retake the core training. An administrator or manager who has successfully completed the core training but has not maintained the continuing education requirements will be considered a new administrator or manager for the purposes of the core training requirements and must:

1. Retake the assisted living facility core training; and,
2. Retake and pass the competency test.

(e) The fees for the competency test shall not exceed \$200.00. The payment for the competency test fee shall be remitted to the entity administering the test. A new fee is due each time the test is taken.

(2) STAFF PRESERVICE ORIENTATION.

(a) Facilities must provide a preservice orientation of at least 2 hours to all new assisted living facility employees who have not previously completed core training as detailed in subsection (1).

(b) New staff must complete the preservice orientation prior to interacting with residents.

(c) Once complete, the employee and the facility administrator must sign a statement that the employee completed the preservice orientation which must be kept in the employee's personnel record.

(d) In addition to topics that may be chosen by the facility administrator, the preservice orientation must cover:

1. Resident's rights; and,
2. The facility's license type and services offered by the facility.

(3) STAFF IN-SERVICE TRAINING. Facility administrators or managers shall provide or arrange for the following in-service training to facility staff:

(a) Staff who provide direct care to residents, other than nurses, certified nursing assistants, or home health aides trained in accordance with rule 59A-8.0095, F.A.C., must receive a minimum of 1 hour in-service training in infection control, including universal precautions and facility sanitation procedures, before providing personal care to residents. The facility must use its infection control policies and procedures when offering this training. Documentation of compliance with the staff training requirements of 29 CFR 1910.1030, relating to blood borne pathogens, may be used to meet this requirement.

(b) Staff who provide direct care to residents must receive a minimum of 1 hour in-service training within 30 days of employment that covers the following subjects:

1. Reporting adverse incidents.
2. Facility emergency procedures including chain-of-command and staff roles relating to emergency evacuation.

(c) Staff who provide direct care to residents, who have not taken the core training program, shall receive a minimum of 1 hour in-service training within 30 days of employment that covers the following subjects:

1. Resident rights in an assisted living facility.
2. Recognizing and reporting resident abuse, neglect, and exploitation. The facility must use its abuse prevention policies and procedures when offering this training.

(d) Staff who provide direct care to residents, other than nurses, CNAs, or home health aides trained in accordance with rule 59A-8.0095, F.A.C., must receive 3 hours of in-service training within 30 days of employment that covers the following subjects:

1. Resident behavior and needs.
2. Providing assistance with the activities of daily living.

(e) Staff who prepare or serve food, who have not taken the assisted living facility core training must receive a minimum of 1-hour-in-service training within 30 days of employment in safe food handling practices.

(f) All facility staff shall receive in-service training regarding the facility's resident elopement response policies and procedures within thirty (30) days of employment.

1. All facility staff shall be provided with a copy of the facility's resident elopement response policies and procedures.

2. All facility staff shall demonstrate an understanding and competency in the implementation of the elopement response policies and procedures.

(4) HUMAN IMMUNODEFICIENCY VIRUS/ACQUIRED IMMUNE DEFICIENCY SYNDROME (HIV/AIDS). Pursuant to section 381.0035, F.S., all facility employees, with the exception of employees subject to the requirements of section 456.033, F.S., must complete a one-time education course on HIV and AIDS, including the topics prescribed in the section 381.0035, F.S. New facility staff must obtain the training within 30 days of employment. Documentation of compliance must be maintained in accordance with subsection (12), of this rule.

(5) FIRST AID AND CARDIOPULMONARY RESUSCITATION (CPR). A staff member who has completed courses in First Aid and CPR and holds a currently valid card documenting completion of such courses must be in the facility at all times.

- (a) Documentation that the staff member possess current CPR certification that requires the student to demonstrate, in person, that he or she is able to perform CPR and which is issued by an instructor or training provider that is approved to provide CPR training by the American Red Cross, the American Heart Association, the National Safety Council, or an organization whose training is accredited by the Commission on Accreditation for Pre-Hospital Continuing Education satisfies this requirement.

- (b) A nurse shall be considered as having met the training requirement for First Aid. An emergency medical technician or paramedic currently certified under chapter 401, Part III, F.S., shall be considered as having met the training requirements for both First Aid and C.P.R.

(6) ASSISTANCE WITH THE SELF-ADMINISTRATION OF MEDICATION AND MEDICATION MANAGEMENT. Unlicensed persons who will be providing assistance with the self-administration of medications as described in rule 58A-5.0185, F.A.C., must meet the training requirements pursuant to section 429.52(6), F.S., prior to assuming this responsibility. Courses provided in fulfilment of this requirement must meet the following criteria:

- (a) Training must cover state law and rule requirements with respect to the supervision, assistance, administration, and management of medications in assisted living facilities; procedures and techniques for assisting the resident with self-administration of medication including how to read a prescription label; providing the right medications to the right resident; common medications; the importance of taking medications as prescribed; recognition of side effects and adverse reactions and procedures to follow when residents appear to be experiencing side effects and adverse reactions; documentation and record keeping; and medication storage and disposal. Training shall include demonstrations of proper techniques, including techniques for infection control, and ensure unlicensed staff have adequately demonstrated that they have acquired the skills necessary to provide such assistance.

- (b) The training must be provided by a registered nurse or licensed pharmacist who shall issue a training certificate to a trainee who demonstrates, in person and both physically and verbally, the ability to:

1. Read and understand a prescription label;
2. Provide assistance with self-administration in accordance with section 429.256, F.S., and rule 58A-5.0185, F.A.C., including:
  - a. Assist with oral dosage forms, topical dosage forms, and topical ophthalmic, otic and nasal dosage forms;
  - b. Measure liquid medications, break scored tablets, and crush tablets in accordance with prescription directions;
  - c. Recognize the need to obtain clarification of an “as needed” prescription order;
  - d. Recognize a medication order which requires judgment or discretion, and to advise the resident, resident’s health care provider or facility employer of inability to assist in the administration of such orders;
  - e. Complete a medication observation record;
  - f. Retrieve and store medication;
  - g. Recognize the general signs of adverse reactions to medications and report such reactions;
  - h. Assist residents with insulin syringes that are prefilled with the proper dosage by a pharmacist and insulin pens that are prefilled by the manufacturer by taking the medication, in its previously dispensed, properly labeled container, from where it is stored, and bringing it to the resident for self-injection;
    - i. Assist with nebulizers;
    - j. Use a glucometer to perform blood glucose testing;
    - k. Assist residents with oxygen nasal cannulas and continuous positive airway pressure (CPAP) devices, excluding the titration of the oxygen levels;
    - l. Apply and remove anti-embolism stockings and hosiery;
    - m. Placement and removal of colostomy bags, excluding the removal of the flange or manipulation of the stoma site; and,
    - n. Measurement of blood pressure, heart rate, temperature, and respiratory rate.

(c) Unlicensed persons, as defined in section 429.256(1)(b), F.S., who provide assistance with self-administered medications and have successfully completed the initial 6 hour training, must obtain, annually, a minimum of 2 hours of continuing education training on providing assistance with self-administered medications and safe medication practices in an assisted living facility. The 2 hours of continuing education training may be provided online.

(d) Trained unlicensed staff who, prior to the effective date of this rule, assist with the self-administration of medication and have successfully completed 4 hours of assistance with self-administration of medication training must complete an additional 2 hours of training that focuses on the topics listed in sub-subparagraphs (6)(b)2.h.-n. of this section, before assisting with the self-administration of medication procedures listed in sub-subparagraphs (6)(b)2.h.-n.

(7) NUTRITION AND FOOD SERVICE. The administrator or person designated by the administrator as responsible for the facility’s food service and the day-to-day supervision of food service staff must obtain, annually, a minimum of 2 hours continuing education in topics pertinent to nutrition and food service in an assisted living facility. This requirement does not apply to administrators and designees who are exempt from training requirements under paragraph 58A-5.020(1)(b). A certified food manager, licensed dietician, registered dietary technician or health department sanitarian is qualified to train assisted living facility staff in nutrition and food service.

(8) EXTENDED CONGREGATE CARE (ECC) TRAINING.

(a) The administrator and ECC supervisor, if different from the administrator, must complete core training and 4 hours of initial training in extended congregate care prior to the facility receiving its ECC license or within 3 months

of beginning employment in a currently licensed ECC facility as an administrator or ECC supervisor. Successful completion of the assisted living facility core training shall be a prerequisite for this training. ECC supervisors who attended the assisted living facility core training prior to April 20, 1998, shall not be required to take the assisted living facility core training competency test.

(b) The administrator and the ECC supervisor, if different from the administrator, must complete a minimum of 4 hours of continuing education every two years in topics relating to the physical, psychological, or social needs of frail elderly and disabled persons, or persons with Alzheimer's disease or related disorders.

(c) All direct care staff providing care to residents in an ECC program must complete at least 2 hours of in-service training, provided by the facility administrator or ECC supervisor, within 6 months of beginning employment in the facility. The training must address ECC concepts and requirements, including statutory and rule requirements, and the delivery of personal care and supportive services in an ECC facility.

(9) LIMITED MENTAL HEALTH TRAINING.

(a) Pursuant to section 429.075, F.S., the administrator, managers and staff, who have direct contact with mental health residents in a licensed limited mental health facility, must receive the following training:

1. A minimum of 6 hours of specialized training in working with individuals with mental health diagnoses.

a. The training must be provided or approved by the Department of Children and Families and must be taken within 6 months of the facility's receiving a limited mental health license or within 6 months of employment in a limited mental health facility.

b. Training received under this subparagraph may count once for 6 of the 12 hours of continuing education required for administrators and managers pursuant to section 429.52(5), F.S., and subsection (1) of this rule.

2. A minimum of 3 hours of continuing education, which may be provided by the ALF administrator, online, or through distance learning, biennially thereafter in subjects dealing with one or more of the following topics:

a. Mental health diagnoses; and,

b. Mental health treatment such as:

(I) Mental health needs, services, behaviors and appropriate interventions;

(II) Resident progress in achieving treatment goals;

(III) How to recognize changes in the resident's status or condition that may affect other services received or may require intervention; and,

(IV) Crisis services and the Baker Act procedures.

3. For administrators and managers, the continuing education requirement under this subsection will satisfy 3 of the 12 hours of continuing education required biennially pursuant to section 429.52(5), F.S., and subsection (1) of this rule.

4. Administrators, managers and direct contact staff affected by the continuing education requirement under this subsection shall have up to 6 months after the effective date of this rule to meet the training requirement.

(b) Administrators, managers and staff do not have to repeat the initial training should they change employers provided they present a copy of their training certificate to the current employer for retention in the facility's personnel files. They must also ensure that copies of the continuing education training certificates, pursuant to subparagraph (a)2. of this subsection, are retained in their personnel files.

(10) ALZHEIMER'S DISEASE AND RELATED DISORDERS ("ADRD") TRAINING REQUIREMENTS.

Facilities which advertise that they provide special care for persons with ADRD, or who maintain secured areas as

described in Chapter 4, Section 64.4.6 of the Florida Building Code, as adopted in rule 61G20-1.001, F.A.C., Florida Building Code Adopted, must ensure that facility staff receive the following training.

(a) Facility staff who interact on a daily basis with residents with ADRD but do not provide direct care to such residents and staff who provide direct care to residents with ADRD, shall obtain 4 hours of initial training within 3 months of employment. Completion of the core training program between April 20, 1998 and July 1, 2003 shall satisfy this requirement. Facility staff who meet the requirements for ADRD training providers under paragraph (g) of this subsection, will be considered as having met this requirement. Initial training, entitled “Alzheimer’s Disease and Related Disorders Level I Training,” must address the following subject areas:

1. Understanding Alzheimer’s disease and related disorders;
2. Characteristics of Alzheimer’s disease;
3. Communicating with residents with Alzheimer’s disease;
4. Family issues;
5. Resident environment; and,
6. Ethical issues.

(b) Staff who have successfully completed both the initial one hour and continuing three hours of ADRD training pursuant to sections 400.1755, 429.917 and 400.6045(1), F.S., shall be considered to have met the initial assisted living facility Alzheimer’s Disease and Related Disorders Level I Training.

(c) Facility staff who provide direct care to residents with ADRD must obtain an additional 4 hours of training, entitled “Alzheimer’s Disease and Related Disorders Level II Training,” within 9 months of employment. Facility staff who meet the requirements for ADRD training providers under paragraph (g) of this subsection, will be considered as having met this requirement. Alzheimer’s Disease and Related Disorders Level II Training must address the following subject areas as they apply to these disorders:

1. Behavior management,
2. Assistance with ADLs,
3. Activities for residents,
4. Stress management for the care giver; and,
5. Medical information.

(d) A detailed description of the subject areas that must be included in an ADRD curriculum which meets the requirements of paragraphs (a) and (b) of this subsection, can be found in the document “Training Guidelines for the Special Care of Persons with Alzheimer’s Disease and Related Disorders,” dated March 1999, incorporated by reference, available from the Department of Elder Affairs, 4040 Esplanade Way, Tallahassee, Florida 32399-7000.

(e) Direct care staff shall participate in 4 hours of continuing education annually as required under section 429.178, F.S. Continuing education received under this paragraph may be used to meet 3 of the 12 hours of continuing education required by section 429.52, F.S., and subsection (1) of this rule, or 3 of the 6 hours of continuing education for extended congregate care required by subsection (7) of this rule.

(f) Facility staff who have only incidental contact with residents with ADRD must receive general written information provided by the facility on interacting with such residents, as required under section 429.178, F.S., within three (3) months of employment. “Incidental contact” means all staff who neither provide direct care nor are in regular contact with such residents.

(g) Persons who seek to provide ADRD training in accordance with this subsection must provide the department



or its designee with documentation that they hold a Bachelor's degree from an accredited college or university or hold a license as a registered nurse, and:

1. Have 1 year teaching experience as an educator of caregivers for persons with Alzheimer's disease or related disorders, or

2. Three years of practical experience in a program providing care to persons with Alzheimer's disease or related disorders, or

3. Completed a specialized training program in the subject matter of this program and have a minimum of two years of practical experience in a program providing care to persons with Alzheimer's disease or related disorders.

(h) With reference to requirements in paragraph (g), a Master's degree from an accredited college or university in a subject related to the content of this training program can substitute for the teaching experience. Years of teaching experience related to the subject matter of this training program may substitute on a year-by-year basis for the required Bachelor's degree referenced in paragraph (g).

(10) DO NOT RESUSCITATE ORDERS TRAINING.

(a) Currently employed facility administrators, managers, direct care staff and staff involved in resident admissions must receive at least one hour of training in the facility's policies and procedures regarding Do Not Resuscitate Orders.

(b) Newly hired facility administrators, managers, direct care staff and staff involved in resident admissions must receive at least one hour of training in the facility's policy and procedures regarding DNROs within 30 days after employment.

(c) Training shall consist of the information included in rule 58A-5.0186, F.A.C.

(11) TRAINING DOCUMENTATION AND MONITORING.

(a) Except as otherwise noted, certificates, or copies of certificates, of any training required by this rule must be documented in the facility's personnel files. The documentation must include the following:

1. The title of the training program,
2. The subject matter of the training program,
3. The training program agenda,
4. The number of hours of the training program,
5. The trainee's name, dates of participation, and location of the training program,
6. The training provider's name, dated signature and credentials, and professional license number, if applicable.

(b) Upon successful completion of training pursuant to this rule, the training provider must issue a certificate to the trainee as specified in this rule.

(c) The facility must provide the Department of Elder Affairs and the Agency for Health Care Administration with training documentation and training certificates for review, as requested. The department and agency reserve the right to attend and monitor all facility in-service training, which is intended to meet regulatory requirements.

*Rulemaking Authority 429.178, 429.41, 429.52 FS. Law Implemented 429.07, 429.075, 429.178, 429.41, 429.52 FS. History—New 9-30-92, Formerly 10A-5.0191, Amended 10-30-95, 6-2-96, 4-20-98, 11-2-98, 10-17-99, 7-5-05, 7-30-06, 10-9-06, 7-1-08, 4-15-10, 5-10-18.*

### **58A-5.0194 Alzheimer's Disease or Related Disorders Training Provider and Curriculum Approval.**

(1) The Alzheimer's Disease or Related Disorders ("ADRDR") training provider and curriculum must be approved by the department or its designee before commencing training activities. The department or its designee will maintain a list of approved ADRDR training providers and curricula, which may be obtained from <http://usfweb3.usf.edu/trainingonAging/default.aspx>.

(a) ADRDR Training Providers.

1. Individuals who seek to become an ADRDR training provider must provide the department or its designee with the documentation of the following educational, teaching, or practical experience:

a. A Master's degree from an accredited college or university in a health care, human service, or gerontology related field, or

b. A Bachelor's degree from an accredited college or university, or licensure as a registered nurse, and:

(I) Proof of 1 year of teaching experience as an educator of caregivers for individuals with Alzheimer's disease or related disorders, or

(II) Proof of completion of a specialized training program specifically relating to Alzheimer's disease or related disorders, and a minimum of 2 years of practical experience in a program providing direct care to individuals with Alzheimer's disease or related disorders, or

(III) Proof of 3 years of practical experience in a program providing direct care to persons with Alzheimer's disease or related disorders.

c. Teaching experience pertaining to Alzheimer's disease or related disorders may substitute on a year-by-year basis for the required Bachelor's degree.

2. Applicants seeking approval as ADRDR training providers must complete DOEA form ALF/ADRDR-001, Application for Alzheimer's Disease or Related Disorders Training Provider Certification, dated November 2013, which is incorporated by reference and available at the Department of Elder Affairs, 4040 Esplanade Way, Tallahassee, Florida 32399-7000 and online at: <http://www.flrules.org/Gateway/reference.asp?No=Ref-04000>.

(b) ADRDR Training Curricula. Applicants seeking approval of ADRDR curricula must complete DOEA form ALF/ADRDR-002, Application for Alzheimer's Disease or Related Disorders Training Three-Year Curriculum Certification, dated November 2013, which is incorporated by reference and available at the Department of Elder Affairs, 4040 Esplanade Way, Tallahassee, Florida 32399-7000, and online at <http://www.flrules.org/Gateway/reference.asp?No=Ref-04001>. Approval of the curriculum will be granted based on how well the curriculum addresses the subject areas referenced in subparagraphs 58A-5.0191(4)(a)2., and 58A-5.0191(4)(a)5., F.A.C. Curriculum approval will be granted for 3 years. After 3 years the curriculum must be resubmitted to the department or its designee for approval.

(2) Approved ADRDR training providers must maintain records of each course taught for a period of 3 years following each training presentation. Course records must include the title of the approved ADRDR training curriculum, the curriculum approval number, the number of hours of training, the training provider's name and approval number, the date and location of the course, and a roster of trainees.

(3) Upon successful completion of training, the trainee must be issued a certificate by the approved training provider. The certificate must include the trainee's name, the title of the approved ADRDR training, the curriculum approval number, the number of hours of training received, the date and location of the course, the training provider's name and approval number, and dated signature.

(4) The department or its designee reserves the right to attend and monitor ADRD training courses, review records and course materials approved pursuant to this rule, and revoke approval for the following reasons: non-adherence to approved curriculum, failing to maintain required training credentials, or knowingly disseminating any false or misleading information.

(5) ADRD training providers satisfying the requirements of section 400.1755, F.S., relating to nursing homes, and section 400.6045, F.S., relating to hospices, will satisfy the Level 1 and Level 2 training provider requirements of subparagraph 58A-5.0191(4)(a)3., and paragraph 58A-5.0191(4)(a), subsection (5), F.A.C. ADRD training curricula satisfying the requirements of Section 400.1755, F.S., relating to nursing homes, and Section 400.6045, F.S., relating to hospices, will satisfy the Level 1 curriculum requirements of subparagraph 58A-5.0191(4)(a)3., F.A.C.

*Rulemaking Authority 429.178 FS. Law Implemented 429.178 FS. History—New 4-17-14.*

#### **58A-5.020 Food Service Standards.**

(1) GENERAL RESPONSIBILITIES. When food service is provided by the facility, the administrator, or an individual designated in writing by the administrator, must be responsible for total food services and the day-to-day supervision of food services staff. In addition, the following requirements apply:

(a) If the designee is an individual who has not completed an approved assisted living facility core training course, such individual must complete the food and nutrition services module of the core training course before assuming responsibility for the facility's food service. The designee is not subject to the 1 hour in-service training in safe food handling practices.

(b) If the designee is a certified food manager, certified dietary manager, registered or licensed dietitian, dietetic registered technician, or health department sanitarian, the designee is exempt from the requirement to complete the food and nutrition services module of the core training course before assuming responsibility for the facility's food service as required in paragraph (1)(a) of this rule.

(c) An administrator or designee must perform his or her duties in a safe and sanitary manner.

(d) An administrator or designee must provide regular meals that meet the nutritional needs of residents, and therapeutic diets as ordered by the resident's health care provider for residents who require special diets.

(e) An administrator or designee must comply with the food service continuing education requirements specified in rule 58A-5.0191, F.A.C.

#### (2) DIETARY STANDARDS.

(a) The meals provided by the assisted living facility must be planned based on the current USDA Dietary Guidelines for Americans, 2010, which are incorporated by reference and available for review at: <http://www.flrules.org/Gateway/reference.asp?No=Ref-04003>, and the current summary of Dietary Reference Intakes established by the Food and Nutrition Board of the Institute of Medicine of the National Academies, 2010, which are incorporated by reference and available for review at: [http://iom.edu/Activities/Nutrition/SummaryDRIs/~media/Files/Activity%20Files/Nutrition/DRIs/New%20Material/5DRI%20Values%20SummaryTables%2014.pdf](http://iom.edu/Activities/Nutrition/SummaryDRIs/~/media/Files/Activity%20Files/Nutrition/DRIs/New%20Material/5DRI%20Values%20SummaryTables%2014.pdf). Therapeutic diets must meet these nutritional standards to the extent possible.

(b) The residents' nutritional needs must be met by offering a variety of meals adapted to the food habits, preferences, and physical abilities of the residents, and must be prepared through the use of standardized recipes. For facilities with a licensed capacity of 16 or fewer residents, standardized recipes are not required. Unless a resident chooses to eat less, the facility must serve the standard minimum portions of food according to the Dietary Reference Intakes.

(c) All regular and therapeutic menus to be used by the facility must be reviewed annually by a licensed or registered dietitian, a licensed nutritionist, or a registered dietetic technician supervised by a licensed or registered dietitian, or a licensed nutritionist to ensure the meals meet the nutritional standards established in this rule. The annual review must be documented in the facility files and include the original signature of the reviewer, registration or license number, and date reviewed. Portion sizes must be indicated on the menus or on a separate sheet.

1. Daily food servings may be divided among three or more meals per day, including snacks, as necessary to accommodate resident needs and preferences.

2. Menu items may be substituted with items of comparable nutritional value based on the seasonal availability of fresh produce or the preferences of the residents.

(d) Menus must be dated and planned at least 1 week in advance for both regular and therapeutic diets. Residents must be encouraged to participate in menu planning. Planned menus must be conspicuously posted or easily available to residents. Regular and therapeutic menus as served, with substitutions noted before or when the meal is served, must be kept on file in the facility for 6 months.

(e) Therapeutic diets must be prepared and served as ordered by the health care provider.

1. Facilities that offer residents a variety of food choices through a select menu, buffet style dining, or family style dining are not required to document what is eaten unless a health care provider's order indicates that such monitoring is necessary. However, the food items that enable residents to comply with the therapeutic diet must be identified on the menus developed for use in the facility.

2. The facility must document a resident's refusal to comply with a therapeutic diet and provide notification to the resident's health care provider of such refusal.

(f) For facilities serving three or more meals a day, no more than 14 hours must elapse between the end of an evening meal containing a protein food and the beginning of a morning meal. Intervals between meals must be evenly distributed throughout the day with not less than 2 hours nor more than 6 hours between the end of one meal and the beginning of the next. For residents without access to kitchen facilities, snacks must be offered at least once per day. Snacks are not considered to be meals for the purposes of calculating the time between meals.

(g) Food must be served attractively at safe and palatable temperatures. All residents must be encouraged to eat at tables in the dining areas. A supply of eating ware sufficient for all residents, including adaptive equipment if needed by any resident, must be on hand.

(h) A 3-day supply of nonperishable food, based on the number of weekly meals the facility has contracted with residents to serve, must be on hand at all times. The quantity must be based on the resident census and not on licensed capacity. The supply must consist of foods that can be stored safely without refrigeration. Water sufficient for drinking and food preparation must also be stored, or the facility must have a plan for obtaining water in an emergency, with the plan coordinated with and reviewed by the local disaster preparedness authority.

(3) FOOD HYGIENE. Copies of inspection reports issued by the county health department for the last 2 years pursuant to rule 64E-12.004, or chapter 64E-11, F.A.C., as applicable, depending on the licensed capacity of the assisted living facility, must be on file in the facility.

(4) CONTRACTED FOOD SERVICE. When food service is contracted by the facility, the facility must ensure that the contracted food service meets all dietary standards imposed by this rule and is adequately protected upon delivery to the facility pursuant to subsection 64E-12.004(4), F.A.C. The facility must maintain:

(a) A copy of the current contract between the facility and the food service contractor.

(b) A copy of the annually issued certificate or license authorizing the operation of the food service contractor issued by the applicable regulating agency. The license or certificate must provide documentation of the food service contractor's compliance with food service regulatory requirements.

*Rulemaking Authority 429.41 FS. Law Implemented 429.41, 429.52 FS. History—New 5-14-81, Amended 1-6-82, 5-19-83, 9-17-84, Formerly 10A-5.20, Amended 10-20-86, 6-21-88, 8-15-90, 9-30-92, Formerly 10A-5.020, Amended 10-30-95, 6-2-96, 10-17-99, 4-17-14.*

#### **58A-5.021 Fiscal Standards.**

(1) FINANCIAL STABILITY. The facility must be administered on a sound financial basis in order to ensure adequate resources to meet resident needs pursuant to the requirements of chapters 408, Part II, Part I, F.S., and rule chapter 59A-35, F.A.C., and this rule chapter.

(2) RESIDENT TRUST FUNDS. Funds or other property received by the facility belonging to or due a resident, including personal funds, must be held as trust funds and expended only for the resident's account. Resident funds or property may be held in one bank account if a separate written accounting for each resident is maintained. A separate bank account is required for facility funds; co-mingling resident funds with facility funds is prohibited. Written accounting procedures for resident trust funds must include income and expense records of the trust fund, including the source and disposition of the funds.

(3) SURETY BONDS. Pursuant to the requirements of section 429.27(2), F.S.:

(a) For entities that own more than one facility in the state, one surety bond may be purchased to cover the needs of all residents served by the entities.

(b) The following additional bonding requirements apply to facilities serving residents receiving OSS:

1. If serving as representative payee for a resident receiving OSS, the minimum bond proceeds must equal twice the value of the resident's monthly aggregate income, which must include any supplemental security income or social security disability income plus the OSS payments, including the personal needs allowance.

2. If holding a power of attorney for a resident receiving OSS, the minimum bond proceeds must equal twice the value of the resident's monthly aggregate income, which must include any supplemental security income or social security disability income; the OSS payments, including the personal allowance; plus the value of any property belonging to a resident held at the facility.

(c) Upon the annual issuance of a new bond or continuation bond, the facility must file a copy of the bond with the Agency Central Office.

(4) LIABILITY INSURANCE. Pursuant to section 429.275, F.S., facilities must maintain liability insurance coverage, as defined in section 624.605, F.S., that remains in force at all times. On the renewal date of the facility's policy or whenever a facility changes policies, the facility must file documentation of continued coverage with the Agency Central Office. Such documentation must be issued by the insurance company and must include the name and street address of the facility, a reference that the facility is an assisted living facility, the facility's licensed capacity, and the dates of coverage.

*Rulemaking Authority 429.24, 429.27, 429.275, 429.41 FS. Law Implemented 429.27, 429.275 FS. History—New 5-14-81, Amended 1-6-82, 9-17-84, Formerly 10A-5.21, Amended 6-21-88, 8-15-90, 9-30-92, Formerly 10A-5.021, Amended 10-30-95, 6-2-96, 10-17-99, 4-17-14.*

#### **58A-5.022 Facility Maintenance and Housekeeping Standards.**

*Rulemaking Authority 400.441 FS. Law Implemented 400.441(2), (3), (4) FS. History—New 5-14-81, Amended 1-6-82, 9-17-84, Formerly 10A-5.22, Amended 6-21-88, 8-15-90, 9-30-92, Formerly 10A-5.022, Amended 10-30-95, Repealed 10-17-99.*

### **58A-5.0221 Water Supply.**

*Rulemaking Authority 400.441 FS. Law Implemented 400.441 FS. History—New 8-15-90, Amended 9-30-92, Formerly 10A-5.0221, Repealed 10-17-99.*

### **58A-5.0222 Sewage.**

*Rulemaking Authority 400.441 FS. Law Implemented 400.441 FS. History—New 8-15-90, Amended 9-30-92, Formerly 10A-5.0222, Repealed 10-30-95.*

### **58A-5.023 Physical Plant Standards.**

(1) NEW FACILITIES. Newly constructed facilities to be licensed as assisted living facilities, and existing structures, not previously licensed as assisted living facilities, to be converted to assisted living facilities, as well as any subsequent additions, modifications, alterations, renovations or refurbishing of such facilities, are required by governmental entities other than the Department of Elder Affairs to adhere to certain building code and fire safety standards. Such standards may be found in:

(a) Chapter 4, Section 464, of the Florida Building Code as adopted in rule 61G20-1.001, F.A.C.;

(b) Section 633.022, F.S., Uniform Firesafety Standards and rule chapter 69A-40, F.A.C. The Uniform Fire Safety Standards for Assisted Living Facilities; and,

(c) The National Fire Protection Association codes described in section 429.41, F.S.

#### (2) EXISTING FACILITIES.

(a) An assisted living facility must comply with the rule or building code in effect at the time of initial licensure, as well as the rule or building code in effect at the time of any additions, modifications, alterations, refurbishment, renovations or reconstruction. Determination of the installation of a fire sprinkler system in an existing facility must comply with the requirements described in section 429.41, F.S.

(b) A facility undergoing change of ownership is considered an existing facility for purposes of this rule.

#### (3) OTHER REQUIREMENTS.

(a) All facilities must:

1. Provide a safe living environment pursuant to section 429.28(1)(a), F.S.;

2. Be maintained free of hazards; and,

3. Ensure that all existing architectural, mechanical, electrical and structural systems, and appurtenances are maintained in good working order.

(b) Pursuant to section 429.27, F.S., residents must be given the option of using their own belongings as space permits. When the facility supplies the furnishings, each resident bedroom or sleeping area must have at least the following furnishings:

1. A clean, comfortable bed with a mattress no less than 36 inches wide and 72 inches long, with the top surface of the mattress at a comfortable height to ensure easy access by the resident,

2. A closet or wardrobe space for hanging clothes,

3. A dresser, chest or other furniture designed for storage of clothing or personal effects,

4. A table or nightstand, bedside lamp or floor lamp, and waste basket; and,

5. A comfortable chair, if requested.

(c) The facility must maintain master or duplicate keys to resident bedrooms to be used in the event of an emergency.

(d) Residents who use portable bedside commodes must be provided with privacy during use.

(e) Facilities must make available linens and personal laundry services for residents who require such services.

Linens provided by a facility must be free of tears, stains and must not be threadbare.

*Rulemaking Authority 429.41 FS. Law Implemented 429.27, 429.28, 429.41 FS. History—New 5-14-81, Amended 1-6-82, 5-19-83, 9-17-84, Formerly 10A-5.23, Amended 10-20-86, 6-21-88, 8-15-90, 9-30-92, Formerly 10A-5.023, Amended 10-30-95, 6-2-96, 10-17-99, 7-30-06, 4-15-10, 4-17-14.*

#### **58A-5.0223 Garbage and Rubbish.**

*Rulemaking Authority 381.031(1)(g), 381.80 FS. Law Implemented 381.031, 381.80(1)-(4), 395.0101, 400.441(1), 403.708 FS. History—New 8-15-90, Formerly 10A-5.0223, Repealed 10-17-99.*

#### **58A-5.024 Records.**

The facility must maintain required records in a manner that makes such records readily available at the licensee's physical address for review by a legally authorized entity. If records are maintained in an electronic format, facility staff must be readily available to access the data and produce the requested information. For purposes of this section, "readily available" means the ability to immediately produce documents, records, or other such data, either in electronic or paper format, upon request.

(1) FACILITY RECORDS. Facility records must include:

(a) The facility's license displayed in a conspicuous and public place within the facility.

(b) An up-to-date admission and discharge log listing the names of all residents and each resident's:

1. Date of admission, the facility or place from which the resident was admitted, and if applicable, a notation indicating that the resident was admitted with a stage 2 pressure sore; and,

2. Date of discharge, reason for discharge, and identification of the facility or home address to which the resident was discharged. Readmission of a resident to the facility after discharge requires a new entry in the log. Discharge of a resident is not required if the facility is holding a bed for a resident who is out of the facility but intending to return pursuant to rule 58A-5.025, F.A.C. If the resident dies while in the care of the facility, the log must indicate the date of death.

(c) A log listing the names of all temporary emergency placement and respite care residents if not included on the log described in paragraph (b).

(d) The facility's emergency management plan, with documentation of review and approval by the county emergency management agency, as described in rule 58A-5.026, F.A.C., that must be readily available by facility staff.

(e) The facility's liability insurance policy required in rule 58A-5.021, F.A.C.

(f) For facilities that have a surety bond, a copy of the surety bond currently in effect as required by rule 58A-5.021, F.A.C.

(g) The admission package presented to new or prospective residents (less the resident's contract) described in rule 58A-5.0181, F.A.C.

(h) If the facility advertises that it provides special care for persons with Alzheimer's disease or related disorders, a copy of all such facility advertisements as required by section 429.177, F.S.

(i) A grievance procedure for receiving and responding to resident complaints and recommendations as described in rule 58A-5.0182, F.A.C.

(j) All food service records required in rule 58A-5.020, F.A.C., including menus planned and served and county health department inspection reports. Facilities that contract for food services, must include a copy of the contract for food services and the food service contractor's license or certificate to operate.

(k) All fire safety inspection reports issued by the local authority or the State Fire Marshal pursuant to section



429.41, F.S., and rule chapter 69A-40, F.A.C., issued within the last 2 years.

(l) All sanitation inspection reports issued by the county health department pursuant to section 381.031, F.S., and chapter 64E-12, F.A.C., issued within the last 2 years.

(m) Pursuant to section 429.35, F.S., all completed survey, inspection and complaint investigation reports, and notices of sanctions and moratoriums issued by the agency within the last 5 years.

(n) The facility's resident elopement response policies and procedures.

(o) The facility's documented resident elopement response drills.

(p) For facilities licensed as limited mental health, extended congregate care, or limited nursing services, records required as stated in rules 58A-5.029, 58A-5.030 and 58A-5.031, F.A.C., respectively.

(2) STAFF RECORDS.

(a) Personnel records for each staff member must contain, at a minimum, a copy of the employment application, with references furnished, and documentation verifying freedom from signs or symptoms of communicable disease. In addition, records must contain the following, as applicable:

1. Documentation of compliance with all staff training and continuing education required by rule 58A-5.0191, F.A.C.,

2. Copies of all licenses or certifications for all staff providing services that require licensing or certification,

3. Documentation of compliance with level 2 background screening for all staff subject to screening requirements as specified in section 429.174, F.S., and rule 58A-5.019, F.A.C.,

4. For facilities with a licensed capacity of 17 or more residents, a copy of the job description given to each staff member pursuant to rule 58A-5.019, F.A.C.,

5. Documentation verifying direct care staff and administrator participation in resident elopement drills pursuant to paragraph 58A-5.0182(8)(c), F.A.C.

(b) The facility is not required to maintain personnel records for staff provided by a licensed staffing agency or staff employed by an entity contracting to provide direct or indirect services to residents and the facility. However, the facility must maintain a copy of the contract between the facility and the staffing agency or contractor as described in rule 58A-5.019, F.A.C.

(c) The facility must maintain the written work schedules and staff time sheets for the most current 6 months as required by rule 58A-5.019, F.A.C.

(3) RESIDENT RECORDS. Resident records must be maintained on the premises and include:

(a) Resident demographic data as follows:

1. Name,

2. Sex,

3. Race,

4. Date of birth,

5. Place of birth, if known,

6. Social security number,

7. Medicaid and/or Medicare number, or name of other health insurance carrier,

8. Name, address, and telephone number of next of kin, legal representative, or individual designated by the resident for notification in case of an emergency; and,

9. Name, address, and telephone number of the health care provider and case manager, if applicable.

- (b) A copy of the Resident Health Assessment form, AHCA Form 1823 described in rule 58A-5.0181, F.A.C.
- (c) Any orders for medications, nursing services, therapeutic diets, do not resuscitate orders, or other services to be provided, supervised, or implemented by the facility that require a health care provider's order.
- (d) Documentation of a resident's refusal of a therapeutic diet pursuant to rule 58A-5.020, F.A.C., if applicable.
- (e) The resident care record described in paragraph 58A-5.0182(1)(e), F.A.C.
- (f) A weight record that is initiated on admission. Information may be taken from AHCA Form 1823 or the resident's health assessment. Residents receiving assistance with the activities of daily living must have their weight recorded semi-annually.
- (g) For facilities that will have unlicensed staff assisting the resident with the self-administration of medication, a copy of the written informed consent described in rule 58A-5.0181, F.A.C., if such consent is not included in the resident's contract.
- (h) For facilities that manage a pill organizer, assist with self-administration of medications or administer medications for a resident, copies of the required medication records maintained pursuant to rule 58A-5.0185, F.A.C.
- (i) A copy of the resident's contract with the facility, including any addendums to the contract as described in rule 58A-5.025, F.A.C.
- (j) For a facility whose owner, administrator, staff, or representative thereof, serves as an attorney in fact for a resident, a copy of the monthly written statement of any transaction made on behalf of the resident as required in section 429.27, F.S.
- (k) For any facility that maintains a separate trust fund to receive funds or other property belonging to or due a resident, a copy of the quarterly written statement of funds or other property disbursed as required in section 429.27, F.S.
- (l) If the resident is an OSS recipient, a copy of the Department of Children and Families form Alternate Care Certification for Optional State Supplementation (OSS), CF-ES 1006, October 2005, which is hereby incorporated by reference and available for review at: <http://www.flrules.org/Gateway/reference.asp?No=Ref-04004>. The absence of this form will not be the basis for administrative action against a facility if the facility can demonstrate that it has made a good faith effort to obtain the required documentation from the Department of Children and Families.
- (m) Documentation of the appointment of a health care surrogate, health care proxy, guardian, or the existence of a power of attorney, where applicable.
- (n) For hospice patients, the interdisciplinary care plan and other documentation that the resident is a hospice patient as required in rule 58A-5.0181, F.A.C.
- (o) The resident's Do Not Resuscitate Order, DH Form 1896, if applicable.
- (p) For independent living residents who receive meals and occupy beds included within the licensed capacity of an assisted living facility, but who are not receiving any personal, limited nursing, or extended congregate care services, record keeping may be limited to the following at the discretion of the facility:
1. A log listing the names of residents participating in this arrangement,
  2. The resident demographic data required in this paragraph,
  3. The health assessment described in rule 58A-5.0181, F.A.C.,
  4. The resident's contract described in rule 58A-5.025, F.A.C.; and,
  5. A health care provider's order for a therapeutic diet if such diet is prescribed and the resident participates in the meal plan offered by the facility.

(q) Except for resident contracts, which must be retained for 5 years, all resident records must be retained for 2 years following the departure of a resident from the facility unless it is required by contract to retain the records for a longer period of time. Upon request, residents must be provided with a copy of their records upon departure from the facility.

(r) Additional resident records requirements for facilities holding a limited mental health, extended congregate care, or limited nursing services license are provided in rules 58A-5.029, 58A-5.030 and 58A-5.031, F.A.C., respectively.

#### (4) RECORD INSPECTION.

(a) The resident's records must be available to the resident; the resident's legal representative, designee, surrogate, guardian, attorney in fact, or case manager; or the resident's estate, and such additional parties as authorized in writing or by law.

(b) Pursuant to section 429.35, F.S., agency reports that pertain to any agency survey, inspection, or monitoring visit must be available to the residents and the public. In facilities that are co-located with a licensed nursing home, the inspection of record for all common areas is the nursing home inspection report.

*Rulemaking Authority 429.41, 429.275 FS. Law Implemented 429.24, 429.255, 429.256, 429.26, 429.27, 429.275, 429.35, 429.41, 429.52 FS. History—New 5-14-81, Amended 1-6-82, 5-19-83, 9-17-84, Formerly 10A-5.24, Amended 10-20-86, 6-21-88, 8-15-90, 9-30-92, Formerly 10A-5.024, Amended 10-30-95, 4-20-98, 11-2-98, 10-17-99, 7-30-06, 10-9-06, 4-17-14.*

#### **58A-5.0241 Adverse Incident Report.**

(1) INITIAL ADVERSE INCIDENT REPORT. The preliminary adverse incident report required by section 429.23(3), F.S., must be submitted within 1 business day after the incident pursuant to rule 59A-35.110, F.A.C., which requires online reporting.

(2) FULL ADVERSE INCIDENT REPORT. For each adverse incident reported in subsection (1), above, the facility must submit a full report within 15 days of the incident. The full report must be submitted pursuant to rule 59A-35.110, F.A.C., which requires online reporting.

*Rulemaking Authority 429.23 FS. Law Implemented 429.23 FS. History—New 1-9-02, Amended 7-30-06, 4-17-14.*

#### **58A-5.0242 Liability Claim Report.**

(1) MONTHLY LIABILITY CLAIM REPORT. Each assisted living facility must report monthly any liability claim filed against the facility pursuant to rule 59A-35.110, F.A.C., which requires online reporting. Each facility must comply with the reporting time frames and transmission requirements specified in section 429.23(5), F.S.

(2) If a liability claim has not been filed against the facility in a given month, no report is required.

*Rulemaking Authority 429.23 FS. Law Implemented 429.23 FS. History—New 1-9-02, Amended 3-13-14.*

#### **58A-5.025 Resident Contracts.**

(1) Pursuant to section 429.24, F.S., the facility must offer a contract for execution by the resident or the resident's legal representative before or at the time of admission. The contract must contain the following provisions:

(a) A list of the specific services, supplies and accommodations to be provided by the facility to the resident, including limited nursing and extended congregate care services that the resident elects to receive;

(b) The daily, weekly, or monthly rate;

(c) A list of any additional services and charges to be provided that are not included in the daily, weekly, or monthly rates, or a reference to a separate fee schedule that must be attached to the contract;

(d) A provision stating that at least 30 days written notice will be given before any rate increase;

(e) Any rights, duties, or obligations of residents, other than those specified in section 429.28, F.S.;

(f) The purpose of any advance payments or deposit payments, and the refund policy for such advance or deposit payments;

(g) A refund policy that must conform to section 429.24(3), F.S.;

(h) A written bed hold policy and provisions for terminating a bed hold agreement if a facility agrees in writing to reserve a bed for a resident who is admitted to a nursing home, health care facility, or psychiatric facility. The resident or responsible party must notify the facility in writing of any change in status that would prevent the resident from returning to the facility. Until such written notice is received, the agreed upon daily, weekly, or monthly rate may be charged by the facility unless the resident's medical condition prevents the resident from giving written notification, such as when a resident is comatose, and the resident does not have a responsible party to act on the resident's behalf;

(i) A provision stating whether the facility is affiliated with any religious organization and, if so, which organization and its relationship to the facility;

(j) A provision that, upon determination by the administrator or health care provider that the resident needs services beyond those that the facility is licensed to provide, the resident or the resident's representative, or agency acting on the resident's behalf, must be notified in writing that the resident must make arrangements for transfer to a care setting that is able to provide services needed by the resident. In the event the resident has no one to represent him or her, the facility must refer the resident to the social service agency for placement. If there is disagreement regarding the appropriateness of placement, provisions outlined in section 429.26(8), F.S., will take effect;

(k) A provision that residents must be assessed upon admission pursuant to subsection 58A-5.0181(2), F.A.C., and every 3 years thereafter, or after a significant change, pursuant to subsection (4), of that rule;

(l) The facility's policies and procedures for self-administration, assistance with self-administration, and administration of medications, if applicable, pursuant to rule 58A-5.0185, F.A.C. This also includes provisions regarding over-the-counter (OTC) products pursuant to subsection (8) of that rule; and,

(m) The facility's policies and procedures related to a properly executed DH Form 1896, Do Not Resuscitate Order.

(2) The resident, or the resident's representative, must be provided with a copy of the executed contract.

(3) The facility may not levy an additional charge for any supplies, services, or accommodations that the facility has agreed by contract to provide as part of the standard daily, weekly, or monthly rate. The resident or resident's representative must be furnished in advance with an itemized written statement setting forth additional charges for any services, supplies, or accommodations available to residents not covered under the contract. An addendum must be added to the resident contract to reflect the additional services, supplies, or accommodations not provided under the original agreement. Such addendum must be dated and signed by the facility and the resident or resident's legal representative and a copy given to the resident or resident's representative.

*Rulemaking Authority 429.24, 429.41 FS. Law Implemented 429.24, 429.41 FS. History—New 10-17-99, Amended 7-30-06, 4-15-10, 3-13-14.*

#### **58A-5.026 Emergency Management.**

(1) EMERGENCY PLAN COMPONENTS. Pursuant to section 429.41, F.S., each facility must prepare a written comprehensive emergency management plan in accordance with the "Emergency Management Criteria for Assisted Living Facilities," dated October 1995, which is incorporated by reference and available at <http://www.flrules.org/Gateway/reference.asp?No=Ref-04010>. This document is available from the local emergency management agency. The emergency management plan must, at a minimum, address the following:

(a) Provision for all hazards;

(b) Provision for the care of residents remaining in the facility during an emergency, including pre-disaster or emergency preparation; protecting the facility; supplies; emergency power; food and water; staffing; and emergency equipment;

(c) Provision for the care of residents who must be evacuated from the facility during an emergency including identification of such residents and transfer of resident records; evacuation transportation; sheltering arrangements; supplies; staffing; emergency equipment; and medications;

(d) Provision for the care of additional residents who may be evacuated to the facility during an emergency including the identification of such residents, staffing, and supplies;

(e) Identification of residents with Alzheimer's disease or related disorders, and residents with mobility limitations who may need specialized assistance either at the facility or in case of evacuation;

(f) Identification of and coordination with the local emergency management agency;

(g) Arrangement for post-disaster activities including responding to family inquiries, obtaining medical intervention for residents, transportation, and reporting to the local emergency management agency the number of residents who have been relocated, and the place of relocation; and,

(h) The identification of staff responsible for implementing each part of the plan.

(2) EMERGENCY PLAN APPROVAL. The plan must be submitted for review and approval to the local emergency management agency.

(a) If the local emergency management agency requires revisions to the emergency management plan, such revisions must be made and the plan resubmitted to the local office within 30 days of receiving notification that the plan must be revised.

(b) A new facility as described in rule 58A-5.023, F.A.C., and facilities whose ownership has been transferred, must submit an emergency management plan within 30 days after obtaining a license.

(c) The facility must review its emergency management plan on an annual basis. Any substantive changes must be submitted to the local emergency agency for review and approval.

1. Changes in the name, address, telephone number, or position of staff listed in the plan are not considered substantive revisions for the purposes of this rule.

2. Changes in the identification of specific staff must be submitted to the local emergency management agency annually as a signed and dated addendum that is not subject to review and approval.

(d) The local emergency management agency is the final administrative authority for emergency management plans prepared by assisted living facilities.

(e) Any plan approved by the local emergency management agency is considered to have met all the criteria and conditions established in this rule.

(3) PLAN IMPLEMENTATION.

(a) All staff must be trained in their duties and are responsible for implementing the emergency management plan.

(b) If telephone service is not available during an emergency, the facility must request assistance from local law enforcement or emergency management personnel in maintaining communication.

(4) FACILITY EVACUATION. The facility must evacuate the premises during or after an emergency if so directed by the local emergency management agency.

(a) The facility must report the evacuation to the local office of emergency management or designee and to the

agency within 6 hours of the evacuation order. If the evacuation takes more than 6 hours, the facility must report when the evacuation is completed.

(b) The facility must not be re-occupied until the area is cleared for reentry by the local emergency management agency or its designee and the facility can meet the immediate needs of the residents.

(c) A facility with significant structural damage must relocate residents until the facility can be safely re-occupied.

(d) The facility is responsible for knowing the location of all residents until the residents have been relocated to another facility.

(e) The facility must provide the agency with the name of a contact person who must be available by telephone 24 hours a day, seven days a week, until the facility is re-occupied.

(f) The facility must assist in the relocation of residents, and must cooperate with outreach teams established by the Department of Health or emergency management agency to assist in relocation efforts. Resident needs and preferences must be considered to the extent possible in any relocation decision.

(5) EMERGENCY SHELTER. In the event a state of emergency has been declared and the facility is not required to evacuate the premises, the facility may provide emergency shelter above the facility's licensed capacity provided the following conditions are met:

(a) Life safety will not be jeopardized for any individual;

(b) The immediate needs of residents and other individuals sheltered at the facility can be met by the facility;

(c) The facility reports the number of individuals over its licensed capacity and the conditions causing it to the Agency Field Office within 48 hours or as soon as practical. As an alternative, the facility may report to the Agency Central Office at (850)412-4304. If the facility will continue to be over capacity after the declared emergency ends, the agency will review requests for excess capacity on a case-by-case basis; and,

(d) The facility maintains a log of the additional individuals being housed in the facility. The log must include the individual's name, usual address, and the dates of arrival and departure. The log must be available for review by representatives of the agency, the department, the local emergency management agency or its designee. The admissions and discharge log maintained by the facility may be used for this purpose provided the information is maintained in a manner that is easily accessible.

*Rulemaking Authority 429.41 FS. Law Implemented 429.41 FS. History—New 10-17-99, Amended 7-30-06, 4-17-14.*

#### **58A-5.028 Subsidy.**

*Rulemaking Authority 400.454 FS. Law Implemented 400.454 FS. History—New 10-20-86, Formerly 10A-5.028, Amended 10-30-95, Repealed 11-2-98.*

#### **58A-5.029 Limited Mental Health.**

##### **(1) LICENSE APPLICATION.**

(a) Any facility intending to admit one or more mental health residents must obtain a limited mental health license from the agency before accepting the mental health resident.

(b) Facilities applying for a limited mental health license that have uncorrected deficiencies or violations found during the facility's last survey, complaint investigation, or monitoring visit will be surveyed before the issuance of a limited mental health license to determine if such deficiencies or violations have been corrected.

##### **(2) RECORDS.**

(a) A facility with a limited mental health license must maintain an up-to-date admission and discharge log containing the names and dates of admission and discharge for all mental health residents. The admission and discharge log required in rule 58A-5.024, F.A.C., satisfies this condition provided that all mental health residents are

clearly identified.

(b) Staff records must contain documentation that designated staff have completed limited mental health training as required by rule 58A-5.0191, F.A.C.

(c) Resident records must include:

1. Documentation, provided by a mental health care provider within 30 days of the resident's admission to the facility, that the resident is a mental health resident as defined in section 394.4574, F.S., and that the resident is receiving social security disability or supplemental security income and optional state supplementation as follows:

a. An affirmative statement on the Alternate Care Certification for Optional State Supplementation (OSS) form, CF-ES 1006, October 2005, which is hereby incorporated by reference and available for review at: <http://www.flrules.org/Gateway/reference.asp?No=Ref-03988>, that the resident is receiving SSI or SSDI due to a mental disorder,

b. Written verification provided by the Social Security Administration that the resident is receiving SSI or SSDI for a mental disorder. Such verification may be acquired from the Social Security Administration upon obtaining a release from the resident permitting the Social Security Administration to provide such information, or

c. A written statement from the resident's case manager or other mental health care provider that the resident is an adult with severe and persistent mental disorder. The case manager or other mental health care provider must consider the following minimum criteria in making that determination:

(I) The resident is eligible for, is receiving, or has received mental health services within the last 5 years, or

(II) The resident has been diagnosed as having a severe or persistent mental disorder.

2. An appropriate placement assessment provided by the resident's mental health care provider within 30 days of admission to the facility that the resident has been assessed and found appropriate for residence in an assisted living facility. Such assessment must be conducted by a psychiatrist, clinical psychologist, clinical social worker, psychiatric nurse, or an individual supervised by one of these professionals.

a. Any of the following documentation that contains the name of the resident and the name, signature, date, and license number, if applicable, of the person making the assessment, meets this requirement:

(I) Completed Alternate Care Certification for Optional State Supplementation (OSS) form, CF-ES Form 1006,

(II) Discharge Statement from a state mental hospital completed no more than 90 days before admission to the assisted living facility provided it contains a statement that the individual is appropriate to live in an assisted living facility, or

(III) Other signed statement that the resident has been assessed and found appropriate for residency in an assisted living facility.

b. A mental health resident returning to a facility from treatment in a hospital or crisis stabilization unit will not be considered a new admission and will not require a new assessment. However, a break in a resident's residency that requires the facility to execute a new resident contract or admission agreement will be considered a new admission and the resident's mental health care provider must provide a new assessment.

3. A Community Living Support Plan. Each mental health resident and the resident's mental health case manager must, in consultation with the facility administrator, prepare a plan within 30 days of the resident's admission to the facility or within 30 days after receiving the appropriate placement assessment in paragraph (2)(c), whichever is later, that:



a. Includes the specific needs of the resident that must be met in order to enable the resident to live in the assisted living facility and the community,

b. Includes the clinical mental health services to be provided by the mental health care provider to help meet the resident's needs, and the frequency and duration of such services,

c. Includes any other services and activities to be provided by or arranged for by the mental health care provider or mental health case manager to meet the resident's needs, and the frequency and duration of such services and activities,

d. Includes the obligations of the facility to facilitate and assist the resident in attending appointments and arranging transportation to appointments for the services and activities identified in the plan that have been provided or arranged for by the resident's mental health care provider or case manager,

e. Includes a description of other services to be provided or arranged by the facility,

f. Includes a list of factors pertinent to the care, safety, and welfare of the mental health resident and a description of the signs and symptoms particular to the resident that indicate the immediate need for professional mental health services,

g. Is in writing and signed by the mental health resident, the resident's mental health case manager, and the assisted living facility administrator or manager and a copy placed in the resident's file. If the resident refuses to sign the plan, the resident's mental health case manager must add a statement that the resident was asked but refused to sign the plan,

h. Is updated at least annually or if there is a significant change in the resident's behavioral health,

i. May include the Cooperative Agreement described in subparagraph (2)(c)4. If included, the mental health care provider must also sign the plan; and,

j. Must be available for inspection to those who have legal authority to review the document.

4. Cooperative Agreement. The mental health care provider for each mental health resident and the facility administrator or designee must prepare a written statement, within 30 days of the resident's admission to the facility or receipt of the resident's appropriate placement assessment, whichever is later. The statement:

a. Provides procedures and directions for accessing emergency and after-hours care for the mental health resident. The provider must furnish the resident and the facility with the provider's 24-hour emergency crisis telephone number;

b. Must be signed by the administrator or designee and the mental health care provider, or by a designated representative of a Medicaid prepaid health plan if the resident is on a plan and the plan provides behavioral health services in section 409.912, F.S.,

c. May cover all mental health residents of the facility who are clients of the same provider; and,

d. May be included in the Community Living Support Plan described in subparagraph (2)(c)3.

5. Missing documentation will not be the basis for administrative action against a facility if the facility can demonstrate that it has made a good faith effort to obtain the required documentation from the appropriate party. A documented request for such missing documentation made by the facility administrator within 72 hours of the resident's admission will be considered a good faith effort. The documented request must include the name, title, and phone number of the person to whom the request was made and must be kept in the resident's file.

(3) RESPONSIBILITIES OF FACILITY. In addition to the staffing and care standards of this rule chapter to provide for the welfare of residents in an assisted living facility, a facility holding a limited mental health license must:

(a) Meet the facility's obligation to assist the resident in carrying out the activities identified in the Community Living Support Plan;

(b) Provide an opportunity for private face-to-face contact between the mental health resident and the resident's mental health case manager or other treatment personnel of the resident's mental health care provider;

(c) Observe resident behavior and functioning in the facility, and record and communicate observations to the resident's mental health case manager or mental health care provider regarding any significant behavioral or situational changes that may signify the need for a change in the resident's professional mental health services, supports, and services described in the community living support plan, or that the resident is no longer appropriate for residency in the facility;

(d) If the facility initiates an involuntary mental health examination pursuant to section 394.463, F.S., the facility must document the circumstances leading to the initiation of the examination;

(e) Ensure that designated staff have completed limited mental health training as required by rule 58A-5.0191, F.A.C.; and,

(f) Maintain facility, staff, and resident records in accordance with the requirements of this rule chapter.

*Rulemaking Authority 429.41 FS. Law Implemented 429.075, 429.26, 429.41 FS. History--New 8-15-90, Amended 9-30-92, Formerly 10A-5.029, Repromulgated 10-30-95, Amended 6-2-96, 11-2-98, 7-30-06, Amended 4-17-14, 5-10-18.*

#### **58A-5.030 Extended Congregate Care Services.**

##### **(1) LICENSING.**

(a) Any facility intending to establish extended congregate care services must obtain a license from the agency before accepting residents needing extended congregate care services.

(b) Only the portion of a facility that meets the physical requirements of subsection (3), and is staffed in accordance with subsection (4), is considered licensed to provide extended congregate care services to residents who meet the admission and continued residency requirements of this rule.

(2) EXTENDED CONGREGATE CARE POLICIES. Policies and procedures established through extended congregate care services must promote resident independence, dignity, choice, and decision-making. The facility must develop and implement specific written policies and procedures that address:

(a) Aging in place;

(b) The facility's residency criteria developed in accordance with the admission and discharge requirements described in subsection (5), and extended congregate care services listed in subsection (8);

(c) The personal and supportive services the facility intends to provide, how the services will be provided, and the identification of staff positions to provide the services including their relationship to the facility;

(d) The nursing services the facility intends to provide, identification of staff positions to provide nursing services, and the license status, duties, general working hours, and supervision of such staff;

(e) Identifying potential unscheduled resident service needs and mechanisms for meeting those needs including the identification of resources to meet those needs;

(f) A process for mediating conflicts among residents regarding choice of room or apartment and roommate; and,

(g) How to involve residents in decisions concerning the resident. The services must provide opportunities and encouragement for the resident to make personal choices and decisions. If a resident needs assistance to make choices or decisions, a family member or other resident representative must be consulted. Choices must include at a minimum whether:

1. To participate in the process of developing, implementing, reviewing, and revising the resident's service plan,
2. To remain in the same room in the facility, except that a current resident transferring into an extended congregate care services may be required to move to the part of the facility licensed for extended congregate care, if only part of the facility is so licensed,
3. To select among social and leisure activities,
4. To participate in activities in the community. At a minimum the facility must arrange transportation to such activities if requested by the resident; and,
5. To provide input with respect to the adoption and amendment of facility policies and procedures.

(3) STAFFING REQUIREMENTS. The following staffing requirements apply for extended congregate care services:

(a) Supervision by an administrator who has a minimum of two years of managerial, nursing, social work, therapeutic recreation, or counseling experience in a residential, long-term care, or acute care setting or agency serving elderly or disabled persons. If an administrator appoints a manager as the supervisor of an extended congregate care facility, both the administrator and manager must satisfy the requirements of subsection 58A-5.019(1), F.A.C.

1. A baccalaureate degree may be substituted for one year of the required experience.

2. A nursing home administrator licensed under chapter 468, F.S., is qualified under this paragraph.

(b) Provide staff or contract the services of a nurse who must be available to provide nursing services, participate in the development of resident service plans, and perform monthly nursing assessments for extended congregate care residents.

(c) Provide enough qualified staff to meet the needs of extended congregate care residents in accordance with rule 58A-5.019, F.A.C., and to provide the services established in each resident's service plan.

(d) Ensure that adequate staff is awake during all hours to meet the scheduled and unscheduled needs of residents.

(e) Immediately provide additional or appropriately qualified staff, when the agency determines that service plans are not being followed or that residents' needs are not being met because insufficient staffing, in accordance with the staffing standards established in rule 58A-5.019, F.A.C.

(f) Ensure and document that staff receive extended congregate care training as required in rule 58A-5.0191, F.A.C.

(4) ADMISSION AND CONTINUED RESIDENCY.

(a) An individual must meet the following minimum criteria in order to receive extended congregate care services:

1. Be at least 18 years of age;

2. Be free from signs and symptoms of a communicable disease that is likely to be transmitted to other residents or staff; however, an individual who has human immunodeficiency virus (HIV) infection may be admitted to a facility, provided that he or she would otherwise be eligible for admission according to this rule;

3. Be able to transfer, with assistance if necessary. The assistance of more than one individual is permitted;

4. Not be a danger to self or others as determined by a health care provider or mental health practitioner licensed under chapter 490 or 491, F.S.;

5. Not be bedridden;

6. Not have any stage 3 or 4 pressure sores;

7. Not require any of the following nursing services:

- a. Artificial airway management of any kind except that of continuous positive airway pressure may be provided through the use of a CPAP or bipap machine,
- b. Nasogastric tube feeding,
- c. Monitoring of blood gases,
- d. Management of post-surgical drainage tubes or wound vacuums,
- e. Skilled rehabilitative services as described in rule 59G-4.290, F.A.C., or
- f. Treatment of a surgical incision, unless the surgical incision and the condition that caused it have been stabilized and a plan of care developed. The plan of care must be maintained in the resident's record at the facility.

8. Not require 24-hour nursing supervision; and,

9. Have been determined to be appropriate for admission to the facility by the facility administrator or manager. The administrator or manager must base his or her decision on:

- a. An assessment of the strengths, needs, and preferences of the individual, the health assessment required by subsection (6) of this rule, and the preliminary service plan developed in subsection (7),
- b. The facility's residency criteria, and services offered or arranged for by the facility to meet resident needs; and,
- c. The ability of the facility to meet the uniform fire safety standards for assisted living facilities established in rule chapter 69A-40, F.A.C.

(b) Criteria for continued residency in an extended congregate care services must be the same as the criteria for admission, except as specified below.

1. A resident may be bedridden for up to 14 consecutive days.

2. A terminally ill resident who no longer meets the criteria for continued residency may continue to reside in the facility if the following conditions are met:

- a. The resident qualifies for, is admitted to, and consents to the services of a licensed hospice that coordinates and ensures the provision of any additional care and services that may be needed,
- b. Continued residency is agreeable to the resident and the facility,
- c. An interdisciplinary care plan, which specifies the services being provided by hospice and those being provided by the facility, is developed and implemented by a licensed hospice in consultation with the facility; and,
- d. Documentation of the requirements of subparagraph (5)(b)2., is maintained in the resident's file.

3. The extended congregate care administrator or manager is responsible for monitoring the appropriateness of continued residency of a resident in extended congregate care services at all times.

4. A hospice resident that meets the qualifications of continued residency pursuant to this rule may only receive services from the assisted living facility's staff within the scope of the facility's license.

5. Staff may provide any nursing service permitted under the facility's license and total help with the activities of daily living for residents admitted to hospice. Staff may not exceed the scope of their professional licensure or training in any licensed assisted living facility.

(5) HEALTH ASSESSMENT. Before receiving extended congregate care services, all persons, including residents transferring within the same facility to that portion of the facility licensed to provide extended congregate care services, must be examined by a health care provider pursuant to rule 58A-5.0181, F.A.C. A health assessment conducted no more than 60 days before receiving extended congregate care services meets this requirement. Once receiving services, a new health assessment must be obtained at least annually.

(6) SERVICE PLANS.

(a) Before receiving services, the extended congregate care administrator or manager must develop a preliminary service plan that includes an assessment of whether the resident meets the facility's residency criteria, an appraisal of the resident's unique physical, psychological and social needs and preferences, and an evaluation of the facility's ability to meet the resident's needs.

(b) Within 14 days of receiving services, the extended congregate care administrator or manager must coordinate the development of a written service plan that takes into account the resident's health assessment obtained pursuant to subsection (6); the resident's unique physical, psychological and social needs and preferences; and how the facility will meet the resident's needs including the following if required:

1. Health monitoring,
2. Assistance with personal care services,
3. Nursing services,
4. Supervision,
5. Special diets,
6. Ancillary services,
7. The provision of other services such as transportation and supportive services; and,
8. The manner of service provision, and identification of service providers, including family and friends, in keeping with resident preferences.

(c) Pursuant to the definitions of "shared responsibility" and "managed risk" as provided in section 429.02, F.S., the service plan must be developed and agreed upon by the resident or the resident's representative or designee, surrogate, guardian, or attorney-in-fact, and must reflect the responsibility and right of the resident to consider options and assume risks when making choices pertaining to the resident's service needs and preferences.

(d) The service plan must be reviewed and updated quarterly to reflect any changes in the manner of service provision, accommodate any changes in the resident's physical or mental status, or pursuant to recommendations for modifications in the resident's care as documented in the nursing assessment.

(7) EXTENDED CONGREGATE CARE SERVICES. All services must be provided in the least restrictive environment, and in a manner that respects the resident's independence, privacy, and dignity.

(a) A facility providing extended congregate care services may provide supportive services including social service needs, counseling, emotional support, networking, assistance with securing social and leisure services, shopping service, escort service, companionship, family support, information and referral, assistance in developing and implementing self-directed activities, and volunteer services. Family or friends must be encouraged to provide supportive services for residents. The facility must provide training for family or friends to enable them to provide supportive services in accordance with the resident's service plan.

(b) A facility providing extended congregate care services must make available the following additional services if required by the resident's service plan:

1. Total help with bathing, dressing, grooming and toileting,
2. Nursing assessments conducted more frequently than monthly,
3. Measurement and recording of basic vital functions and weight,
4. Dietary management including provision of special diets, monitoring nutrition, and observing the resident's food and fluid intake and output,

5. Assistance with self-administered medications, or the administration of medications and treatments pursuant to a health care provider's order. If the individual needs assistance with self-administration the facility must inform the resident of the qualifications of staff who will be providing this assistance, and if unlicensed persons will be providing such assistance, obtain the resident's or the resident's surrogate, guardian, or attorney-in-fact's informed written consent to provide such assistance as required in section 429.256, F.S.,

6. Supervision of residents with dementia and cognitive impairments,

7. Health education and counseling and the implementation of health-promoting programs and preventive regimes,

8. Provision or arrangement for rehabilitative services; and,

9. Provision of escort services to health-related appointments.

(c) Nursing staff providing extended congregate care services may provide any nursing service permitted within the scope of their license consistent with the residency requirements of this rule and the facility's written policies and procedures, provided the nursing services are:

1. Authorized by a health care provider's order and pursuant to a plan of care,

2. Medically necessary and appropriate for treatment of the resident's condition,

3. In accordance with the prevailing standard of practice in the nursing community,

4. A service that can be safely, effectively, and efficiently provided in the facility,

5. Recorded in nursing progress notes; and,

6. In accordance with the resident's service plan.

(d) At least monthly, or more frequently if required by the resident's service plan, a nursing assessment of the resident must be conducted.

(8) RECORDS. In addition to the records required in rule 58A-5.024, F.A.C., a facility providing extended congregate care services must maintain the following:

(a) The service plans for each resident receiving extended congregate care services;

(b) The nursing progress notes for each resident receiving nursing services;

(c) Nursing assessments; and,

(d) The facility's extended congregate care policies and procedures.

(9) DISCHARGE. If the facility and the resident are unable to agree on a service plan, the facility is unable to meet the resident's needs as identified in the service plan, or the resident no longer meets the criteria for continued residency, the resident must be discharged or relocated in accordance with sections 429.26 and 429.28, F.S.

*Rulemaking Authority 429.07, 429.41 FS. Law Implemented 429.07, 429.255, 429.26, 429.28, 429.41 FS. History—New 9-30-92, Formerly 10A-5.030, Amended 10-30-95, 6-2-96, 4-20-98, 11-2-98, 10-17-99, 7-30-06, 4-17-14, 5-10-18.*

#### **58A-5.031 Limited Nursing Services.**

Any facility intending to provide limited nursing services must obtain a license from the agency.

(1) NURSING SERVICES. In addition to any nursing service permitted under a standard license pursuant to section 429.255, F.S., a facility with a limited nursing services license may provide nursing care to residents who do not require 24-hour nursing supervision and to residents who do require 24-hour nursing care and are enrolled in hospice.

(2) RESIDENT CARE STANDARDS.

(a) A resident receiving limited nursing services in a facility holding only a standard and limited nursing services license must meet the admission and continued residency criteria specified in rule 58A-5.0181, F.A.C.

(b) In accordance with rule 58A-5.019, F.A.C., the facility must employ sufficient and qualified staff to meet the needs of residents requiring limited nursing services based on the number of such residents and the type of nursing service to be provided.

(c) Limited nursing services may only be provided as authorized by a health care provider's order, a copy of which must be maintained in the resident's file.

(d) Facilities licensed to provide limited nursing services must employ or contract with a nurse(s) who must be available to provide such services as needed by residents. The facility's employed or contracted nurse must coordinate with third party nursing services providers to ensure resident care is provided in a safe and consistent manner. The facility must maintain documentation of the qualifications of nurses providing limited nursing services in the facility's personnel files.

(e) The facility must ensure that nursing services are conducted and supervised in accordance with chapter 464, F.S., and the prevailing standard of practice in the nursing community.

### (3) RECORDS.

(a) A record of all residents receiving limited nursing services and the type of services provided must be maintained at the facility.

(b) Nursing progress notes must be maintained for each resident who receives limited nursing services.

(c) A nursing assessment conducted at least monthly must be maintained on each resident who receives a limited nursing service.

*Rulemaking Authority 429.41 FS. Law Implemented 429.07, 429.255, 429.26, 429.41 FS. History—New 9-30-92, Formerly 10A-5.031, Amended 10-30-95, 10-17-99, 7-30-06, 3-13-14, 5-10-18.*

### **58A-5.033 Administrative Enforcement.**

Facility staff must cooperate with agency personnel during surveys, complaint investigations, monitoring visits, license application and renewal procedures and other activities necessary to ensure compliance with chapters 408, Part II, 429, Part I, F.S., and rule chapter 59A-35, F.A.C., and this rule chapter.

#### (1) ABBREVIATED SURVEY.

(a) An applicant for license renewal who does not have any class I or class II violations or uncorrected class III violations, confirmed long-term care ombudsman program complaints, or confirmed licensing complaints within the two licensing periods immediately preceding the current renewal date, is eligible for an abbreviated biennial survey by the agency. For the purpose of this rule, a confirmed long-term care ombudsman program complaint is a complaint that is verified and referred to a regulatory agency for further action. Facilities that do not have two survey reports on file with the agency under current ownership are not eligible for an abbreviated inspection. Upon arrival at the facility, the agency must inform the facility that it is eligible for an abbreviated survey, and that an abbreviated survey will be conducted.

(b) Compliance with key quality of care standards described in the following statutes and rules will be used by the agency during its abbreviated survey of eligible facilities:

1. Section 429.26, F.S., and rule 58A-5.0181, F.A.C., relating to residency criteria,
2. Section 429.27, F.S., and rule 58A-5.021, F.A.C., relating to proper management of resident funds and property,
3. Section 429.28, F.S., and rule 58A-5.0182, F.A.C., relating to respect for resident rights,
4. Section 429.41, F.S., and rule 58A-5.0182, F.A.C., relating to the provision of supervision, assistance with the activities of daily living, and arrangement for appointments and transportation to appointments,



5. Section 429.256, F.S., and rule 58A-5.0185, F.A.C., relating to assistance with or administration of medications,

6. Section 429.41, F.S., and rule 58A-5.019, F.A.C., relating to the provision of sufficient staffing to meet resident needs,

7. Section 429.41, F.S., and rule 58A-5.020, F.A.C., relating to minimum dietary requirements and proper food hygiene,

8. Section 429.075, F.S., and rule 58A-5.029, F.A.C., relating to mental health residents' community support living plan,

9. Section 429.07, F.S., and rule 58A-5.030, F.A.C., relating to meeting the environmental standards and residency criteria in a facility with an extended congregate care license; and,

10. Section 429.07, F.S., and rule 58A-5.031, F.A.C., relating to the provision of care and staffing in a facility with a limited nursing services license.

(c) The agency will expand the abbreviated survey or conduct a full survey if violations that threaten or potentially threaten the health, safety, or welfare of residents are identified during the abbreviated survey. The facility must be informed when a full survey will be conducted. If one or more of the following serious problems are identified during an abbreviated survey, a full biennial survey will be immediately conducted:

1. Violations of rule chapter 69A-40, F.A.C., relating to firesafety, that threaten the life or safety of a resident,
2. Violations relating to staffing standards or resident care standards that adversely affect the health, safety, or welfare of a resident,
3. Violations relating to facility staff rendering services for which the facility is not licensed, or
4. Violations relating to facility medication practices that are a threat to the health, safety, or welfare of a resident.

(2) SURVEY DEFICIENCY.

(a) Before or in conjunction with a notice of violation issued pursuant to chapter 408, Part II, and section 429.19, F.S., the agency must issue a statement of deficiency for class I, II, III, and IV violations that are observed by agency personnel during any inspection of the facility. The deficiency statement must be issued within 10 working days of the agency's inspection and must include:

1. A description of the deficiency,
2. A citation to the statute or rule violated; and,
3. A time frame for the correction of the deficiency.

(b) Additional time may be granted to correct specific deficiencies if a written request is received by the agency before the expiration of the time frame included in the agency's statement.

(3) EMPLOYMENT OF A CONSULTANT.

(a) Medication Deficiencies.

1. If a class I, class II, or uncorrected class III deficiency directly relating to facility medication practices as established in rule 58A-5.0185, F.A.C., is documented by the agency pursuant to an inspection of the facility, the agency must notify the facility in writing that the facility must employ or contract the services of a pharmacist licensed pursuant to section 465.0125, F.S., or registered nurse as determined by the agency.

2. After developing and implementing a corrective action plan in compliance with section 429.42(2), F.S., the initial onsite consultant visit must take place within 7 working days of the notice of the class I or II deficiency and within 14 working days of the notice of an uncorrected class III deficiency. The facility must have available for review

by the agency a copy of the license of the consultant pharmacist or registered nurse and the consultant's signed and dated review of the corrective action plan no later than 10 working days subsequent to the initial onsite consultant visit.

3. The facility must provide the agency with, at a minimum, quarterly on-site corrective action plan updates until the agency determines after written notification by the consultant and facility administrator that deficiencies are corrected and staff has been trained to ensure that proper medication standards are followed and that such consultant services are no longer required. The agency must provide the facility with written notification of such determination.

(b) Dietary Deficiencies.

1. If a class I, II, or uncorrected class III deficiency directly related to dietary standards as established in rule 58A-5.020, F.A.C., is documented by the agency pursuant to an inspection of the facility, the agency must notify the facility in writing that the facility must employ or contract the services of a registered or licensed dietitian, or a licensed nutritionist.

2. The initial onsite consultant visit must take place within 7 working days of the notice of a class I or II deficiency or within 14 working days of the notice of an uncorrected class III deficiency. The facility must have available for review by the agency a copy of the license or registration of the consultant dietitian or nutritionist and the consultant's signed and dated review of the facility's corrective action plan, if a plan is required by the agency, no later than 10 working days after the initial onsite consultant visit.

3. If a corrective action plan is required, the facility must provide the agency with, at a minimum, quarterly onsite corrective action plan updates until the agency determines after written notification by the dietary consultant and facility administrator, that deficiencies are corrected and staff has been trained to ensure that proper dietary standards are followed and consultant services are no longer required. The agency must provide the facility with written notification of such determination.

*Rulemaking Authority 429.41, 429.42 FS. Law Implemented 429.19, 429.34, 429.41, 429.42 FS. History—New 9-30-92, Formerly 10A-5.033, Amended 10-30-95, 10-17-99, 1-9-02, 7-30-06, 4-15-10, 3-13-14.*

**58A-5.035 Waivers.**

(1) Application Process.

(a) Licensed assisted living facilities proposing a waiver must submit the request in writing. All requests must include the facility name and address, license number, administrator's name and contact information for the requestor, or its attorney. Petitions for waiver of rules will only be considered for the objectives detailed in section 429.41(4), F.S.

(b) The written request must address the elements required in section 429.41(4), F.S. In addition, the following information must be included in order to demonstrate how a waiver of the stated rule will permit development of a concept that will achieve the purpose of the underlying statute:

1. The rule or rules for which the waiver is requested,
2. The licensee's anticipated date or dates for implementation of the concept,
3. If applying based on cost-effectiveness or cost-savings, a cost-benefit analysis of the proposed alternative to both residents or potential residents as well as facility operations,
4. An analysis of the impact the alternative will have on the relevant local community, including any barriers such as zoning or use issues, that may need resolution before implementation,

5. Specific performance measures with an annual projection of objectives and goals to be achieved broken into quarterly increments or an annual projection of outcome measures, if the concept will be implemented in less than 90 days; and,

6. If applying based on cost-effectiveness or cost-savings, an annual budget projection for the proposed alternative broken into quarterly increments.

(c) A waiver can be requested at the time of the initial license application, relicensure, or any time during the licensure period.

(d) Waiver requests must be submitted to the Agency for Health Care Administration, Assisted Living Unit, 2727 Mahan Drive, Mail Stop 30, Tallahassee, Florida 32308-5403.

(2) The agency must post notice of the request in the Florida Administrative Register within 15 days of receipt of the request. The agency must make any requests for additional information within 30 days of receipt of the request. If additional information is provided, the agency may request clarification of only that information no later than 30 days following receipt of the information. The agency must grant or deny the waiver request within 90 days after receipt of the original request, the last piece of additional information timely requested by the agency, or the requestor's written request to finish processing the waiver request.

(3) The agency, in consultation with the department, will evaluate all requests in light of the likelihood the concept, as described in detail, will achieve the underlying statutory objectives of innovative or cost effective congregate care alternatives to enable individuals to age in place. Waivers may be granted only so long as there is reasonable assurance that the health, safety, and welfare of residents will not be endangered by the waiver.

(4) The agency must grant or deny the request for waiver and enter an order summarizing the facts relied on and the reasons supporting its decision. The agency must provide notice of its order in the Florida Administrative Register. The notice shall contain the name of the requestor, the date the request was filed, the rule number and nature of the rule from which the waiver is sought, a reference to the place and date of publication of the notice of the request, the date of the order denying or approving the waiver, the general basis for the agency's decision, and an explanation of how a copy of the order may be obtained. The requestor must be advised that a denial of the request may be reviewed as provided in subsection (5) of this rule.

(5) Report of Findings. A facility that has been granted a waiver must submit an annual report within 12 months of the order granting the waiver. If the report is not submitted as required, the agency may revoke the waiver.

(a) The agency will review the report of findings to determine whether the waiver will be renewed or revoked. The agency must make the determination based on whether the facility has met the requirements outlined in paragraph (1)(b) of this rule. The agency must enter an order providing the general basis for making its decision and notify the licensee of its opportunity to seek review of a revocation in accordance with sections 120.569 and 120.57, F.S., and rule 28-106.111, F.A.C.

(b) The agency may also consider other material that is available relative to this review.

(c) A waiver is effective unless revoked by the agency or superseded by statutory or regulatory change.

(d) In reviewing the report of findings, the agency, in consultation with the department, must assess whether statutory or regulatory changes should be pursued to enable other facilities to adopt the same practices.

*Rulemaking Authority 429.41 FS. Law Implemented 429.41 FS. History—New 9-30-92, Formerly 10A-5.035, Amended 10-30-95, 7-1-08, 4-17-14.*

### **58A-5.036 Emergency Environmental Control for Assisted Living Facilities.**

(1) DETAILED EMERGENCY ENVIRONMENTAL CONTROL PLAN. Each assisted living facility shall prepare a detailed plan (“plan”) to serve as a supplement to its Comprehensive Emergency Management Plan, to address emergency environmental control in the event of the loss of primary electrical power in that assisted living facility which includes the following information:

(a) The acquisition of a sufficient alternate power source such as a generator(s), maintained at the assisted living facility, to ensure that current licensees of assisted living facilities will be equipped to ensure ambient air temperatures will be maintained at or below 81 degrees Fahrenheit for a minimum of ninety-six (96) hours in the event of the loss of primary electrical power.

1. The required temperature must be maintained in an area or areas, determined by the assisted living facility, of sufficient size to maintain residents safely at all times and that is appropriate for resident care needs and life safety requirements. For planning purposes, no less than twenty (20) net square feet per resident must be provided. The assisted living facility may use eighty percent (80%) of its licensed bed capacity as the number of residents to be used in the calculation to determine the required square footage. This may include areas that are less than the entire assisted living facility if the assisted living facility’s comprehensive emergency management plan includes allowing a resident to congregate when he or she desires in portions of the building where temperatures will be maintained and includes procedures for monitoring residents for signs of heat related injury as required by this rule. This rule does not prohibit a facility from acting as a receiving provider for evacuees when the conditions stated in section 408.821, F.S., and subsection 58A-5.026(5), F.A.C., are met. The plan shall include information regarding the area(s) within the assisted living facility where the required temperature will be maintained.

2. The alternate power source and fuel supply shall be located in an area(s) in accordance with local zoning and the Florida Building Code.

3. Each assisted living facility is unique in size; the types of care provided; the physical and mental capabilities and needs of residents; the type, frequency, and amount of services and care offered; and staffing characteristics. Accordingly, this rule does not limit the types of systems or equipment that may be used to achieve ambient temperatures at or below 81 degrees Fahrenheit for a minimum of ninety-six (96) hours in the event of the loss of primary electrical power. The plan shall include information regarding the systems and equipment that will be used by the assisted living facility and the fuel required to operate the systems and equipment.

a. An assisted living facility in an evacuation zone pursuant to chapter 252, F.S., must maintain an alternative power source and fuel as required by this subsection at all times when the assisted living facility is occupied but is permitted to utilize a mobile generator(s) to enable portability if evacuation is necessary.

b. Assisted living facilities located on a single campus with other facilities under common ownership, may share fuel, alternative power resources, and resident space available on the campus if such resources are sufficient to support the requirements of each facility’s residents, as specified in this rule. Details regarding how resources will be shared and any necessary movement of residents must be clearly described in the emergency power plan.

c. A multistory facility, whose comprehensive emergency management plan is to move residents to a higher floor during a flood or surge event, must place its alternative power source and all necessary additional equipment so it can safely operate in a location protected from flooding or storm surge damage.

(b) The acquisition of sufficient fuel, and safe maintenance of that fuel at the facility, to ensure that in the event of the loss of primary electrical power there is sufficient fuel available for the alternate power source to maintain

ambient temperatures at or below 81 degrees Fahrenheit for a minimum of ninety-six (96) hours after the loss of primary electrical power during a declared state of emergency. The plan must include information regarding fuel source and fuel storage.

1. Facilities must store minimum amounts of fuel onsite as follows:

a. A facility with a licensed capacity of 16 beds or less must store 48 hours of fuel onsite.

b. A facility with a licensed capacity of 17 or more beds must store 72 hours of fuel onsite.

2. An assisted living facility located in an area in a declared state of emergency area pursuant to section 252.36, F.S., that may impact primary power delivery must secure ninety-six (96) hours of fuel. The assisted living facility may utilize portable fuel storage containers for the remaining fuel necessary for ninety-six (96) hours during the period of a declared state of emergency.

3. Piped natural gas is an allowable fuel source and meets the onsite fuel supply requirements under this rule.

4. If local ordinances or other regulations limit the amount of onsite fuel storage for the assisted living facility's location, then the assisted living facility must develop a plan that includes maximum onsite fuel storage allowable by the ordinance or regulation and a reliable method to obtain the maximum additional fuel at least 24 hours prior to depletion of onsite fuel.

(c) The acquisition of services necessary to maintain, and test the equipment and its functions to ensure the safe and sufficient operation of the alternate power source maintained at the assisted living facility.

(d) The acquisition and maintenance of a carbon monoxide alarm.

(2) SUBMISSION OF THE PLAN.

(a) Each assisted living facility licensed prior to the effective date of this rule shall submit its plan to the local emergency management agency for review within 30 days of the effective date of this rule. Assisted living facility plans previously submitted and approved pursuant to emergency rule 58AER17-1, F.A.C., will require resubmission only if changes are made to the plan.

(b) Each new assisted living facility shall submit the plan required under this rule prior to obtaining a license.

(c) Each existing assisted living facility that undergoes any additions, modifications, alterations, refurbishment, renovations or reconstruction that require modification of its systems or equipment affecting the facility's compliance with this rule shall amend its plan and submit it to the local emergency management agency for review and approval.

(3) APPROVED PLANS.

(a) Each assisted living facility must maintain a copy of its approved plan in a manner that makes the plan readily available at the licensee's physical address for review by a legally authorized entity. If the plan is maintained in an electronic format, assisted living facility staff must be readily available to access and produce the plan. For purposes of this section, "readily available" means the ability to immediately produce the plan, either in electronic or paper format, upon request.

(b) Within two (2) business days of the approval of the plan from the local emergency management agency, the assisted living facility shall submit in writing proof of the approval to the Agency for Health Care Administration.

(c) The assisted living facility shall submit a consumer-friendly summary of the emergency power plan to the Agency. The Agency shall post the summary and notice of the approval and implementation of the assisted living facility emergency power plans on its website within ten (10) business days of the plan's approval by the local emergency management agency and update within ten (10) business days of implementation.

#### (4) IMPLEMENTATION OF THE PLAN.

(a) Each assisted living facility licensed prior to the effective date of this rule shall, no later than June 1, 2018, have implemented the plan required under this rule.

(b) The Agency shall allow an extension up to January 1, 2019 to providers in compliance with subsection (c), below, and who can show delays caused by necessary construction, delivery of ordered equipment, zoning or other regulatory approval processes. Assisted living facilities shall notify the Agency that they will utilize the extension and keep the Agency apprised of progress on a quarterly basis to ensure there are no unnecessary delays. If an assisted living facility can show in its quarterly progress reports that unavoidable delays caused by necessary construction, delivery of ordered equipment, zoning or other regulatory approval processes will occur beyond the initial extension date, the assisted living facility may request a waiver pursuant to section 120.542, F.S.

(c) During the extension period, an assisted living facility must make arrangements pending full implementation of its plan that provides the residents with an area or areas to congregate that meets the safe indoor air temperature requirements of paragraph (1)(a), for a minimum of ninety-six (96) hours.

1. An assisted living facility not located in an evacuation zone must either have an alternative power source onsite or have a contract in place for delivery of an alternative power source and fuel when requested. Within twenty-four (24) hours of the issuance of a state of emergency for an event that may impact primary power delivery for the area of the assisted living facility, it must have the alternative power source and no less than ninety-six (96) hours of fuel stored onsite.

2. An assisted living facility located in an evacuation zone pursuant to chapter 252, F.S., must either:

a. Fully and safely evacuate its residents prior to the arrival of the event, or

b. Have an alternative power source and no less than ninety-six (96) hours of fuel stored onsite, within twenty-four (24) hours of the issuance of a state of emergency for the area of the assisted living facility.

(d) Each new assisted living facility shall implement the plan required under this rule prior to obtaining a license.

(e) Existing assisted living facilities that undergo any additions, modifications, alterations, refurbishment, renovations or reconstruction that require modification of the systems or equipment affecting the assisted living facility's compliance with this rule shall implement its amended plan concurrent with any such additions, modifications, alterations, refurbishment, renovations or reconstruction.

(f) The Agency for Health Care Administration may request cooperation from the State Fire Marshal to conduct inspections to ensure implementation of the plan in compliance with this rule.

#### (5) POLICIES AND PROCEDURES.

(a) Each assisted living facility shall develop and implement written policies and procedures to ensure that the assisted living facility can effectively and immediately activate, operate and maintain the alternate power source and any fuel required for the operation of the alternate power source. The procedures shall ensure that residents do not experience complications from fluctuations in ambient air temperatures inside the facility. Procedures must address the care of residents occupying the facility during a declared state of emergency, specifically, a description of the methods to be used to mitigate the potential for heat related injury including:

1. The use of cooling devices and equipment;

2. The use of refrigeration and freezers to produce ice and appropriate temperatures for the maintenance of medicines requiring refrigeration;

3. Wellness checks by assisted living facility staff to monitor for signs of dehydration and heat injury; and,

4. A provision for obtaining medical intervention from emergency services for residents whose life safety is in jeopardy.

(b) Each assisted living facility shall maintain the written policies and procedures in a manner that makes them readily available at the licensee's physical address for review by a legally authorized entity. If the policies and procedures are maintained in an electronic format, assisted living facility staff must be readily available to access the policies and procedures and produce the requested information. For purposes of this section, "readily available" means the ability to immediately produce the policies and procedures, either in electronic or paper format, upon request.

(c) The written policies and procedures must be readily available for inspection by each resident; each resident's legal representative, designee, surrogate, guardian, attorney in fact, or case manager; each resident's estate; and such additional parties as authorized in writing or by law.

(6) REVOCATION OF LICENSE, FINES OR SANCTIONS. For a violation of any part of this rule, the Agency for Health Care Administration may seek any remedy authorized by chapter 429, Part I, F.S., or chapter 408, Part II, F.S., including, but not limited to, license revocation, license suspension, and the imposition of administrative fines.

(7) COMPREHENSIVE EMERGENCY MANAGEMENT PLAN.

(a) Assisted living facilities whose comprehensive emergency management plan is to evacuate must comply with this rule.

(b) Each facility whose plan has been approved shall submit the plan as an addendum with any future submissions for approval of its comprehensive emergency management plan.

(8) NOTIFICATION.

(a) Within five (5) business days, each assisted living facility must notify in writing, unless permission for electronic communication has been granted, each resident and the resident's legal representative:

1. Upon submission of the plan to the local emergency management agency that the plan has been submitted for review and approval;

2. Upon final implementation of the plan by the assisted living facility.

(b) Each assisted living facility must maintain a copy of each notification set forth in paragraph (a), above, in a manner that makes each notification readily available at the licensee's physical address for review by a legally authorized entity. If the notifications are maintained in an electronic format, facility staff must be readily available to access and produce the notifications. For purposes of this section, "readily available" means the ability to immediately produce the notifications, either in electronic or paper format, upon request.

*Rulemaking Authority 429.41 FS. Law Implemented 429.19, 429.41 FS. History—New 3-26-18.*