

Notice of Proposed Rule

DEPARTMENT OF ELDER AFFAIRS

Federal Aging Programs

RULE NO.: RULE TITLE:

58A-5.0131: Definitions

58A-5.014: Licensing and Change of Ownership

58A-5.0181: Admission Procedures, Appropriateness of Placement and Continued Residency Criteria

58A-5.0182: Resident Care Standards

58A-5.0185: Medication Practices

58A-5.019: Staffing Standards

58A-5.0191: Staff Training Requirements and Competency Test

58A-5.024: Records

58A-5.029: Limited Mental Health

58A-5.030: Extended Congregate Care Services

58A-5.031: Limited Nursing Services

PURPOSE AND EFFECT: The purpose of the proposed rule is to implement changes to the assisted living facility regulatory statutes enacted during the 2015 legislative session, Chapter 2015-126, Laws of Florida, and to address the safety and quality of services and care provided to residents within assisted living facilities while being mindful of unnecessary increases in regulation given the many variations in services provided, the number of residents or size of the facility, and the makeup of resident populations in the facilities.

SUMMARY: The proposed rules make changes regarding rule definitions; licensing; admission procedures, appropriateness of placement and continued residency criteria; resident care standards; medication practices; staffing standards; staff training requirements and competency test; record-keeping requirements; limited mental health license requirements; extended congregate care services requirements; limited nursing services requirements; and revision of rules to implement legislative changes.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this rule will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has been prepared by the Agency.

A statement of estimated regulatory costs has been prepared for rules 58A-5.0185 and 58A-5.019 and is available from the person listed below. Following is a summary of the SERC:

Dr. George MacDonald, Ph.D., and Reginald Lee, M.A., Ph.D. candidate, of the Center for Research, Evaluation, Assessment, and Measurement at the University of South Florida analyzed the proposed rules and the SERC is based on their report. For proposed rule 58A-5.0185, F.A.C., there are no additional costs as facilities are already required to comply with the provisions of s. 429.256(3), F.S. For proposed rule 58A-5.019, F.A.C., there are no additional costs as assisted living facilities are already required to provide sufficient staff to serve and care for persons in their facility. As such, it is not anticipated that the proposed rule will directly or indirectly have an adverse impact or increase regulatory costs.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: A SERC has been prepared by the Agency for rules 58A-5.0185 and 58A-5.019.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 429.07, 429.17, 429.178, 429.24, 429.255, 429.256, 429.27, 429.275, 429.31, 429.41, 429.42, 429.44, 429.52, 429.54, and 429.929 FS.

LAW IMPLEMENTED: Part I, Assisted Living Facilities, Chapter 429, FS; 429.905 FS; Chapter 2015-126, Laws of Florida.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: March 26, 2018, from 10:00 a.m.-12:00 p.m.

PLACE: Florida Department of Elder Affairs, 4040 Esplanade Way, Tallahassee, Florida 32399. Interested parties that would like to participate in the hearing by phone can do so by using a call-in number and passcode: Call-in number: 1(888)670-3525, Participant Passcode: 607 758 3264#

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 72 hours before the workshop/meeting by contacting: Djanet Cannady, Department of Elder Affairs, (850) 414-2114, cannadyd@elderaffairs.org. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Jeanne Curtin, Deputy General Counsel, Department of Elder Affairs, 4040 Esplanade Way, Tallahassee, Florida 32399-7000, Telephone Number: (850) 414-2096, Email address: alfrulecomment@elderaffairs.org.

THE FULL TEXT OF THE PROPOSED RULE IS:

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) No change.

(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 areis (850)412-4304, and

http://ahca.myflorida.com/MCHQ/Health_Facility_Regulation/Assisted_Living/alf.shtml

http://ahca.myflorida.com/MCHQ/Health_Facility_Regulation/index.shtml#a.

(3) through (4) No change.

(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)(5) "Assistance with Activities of Daily Living" means individual assistance with the following:

(a) No change.

(b) Bathing – Assembling towels, soaps, or and 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 ~~the residents to~~ choose, ~~and to~~ put on, and remove clothing.

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

(e) Grooming – Helping ~~the residents~~ with shaving, ~~with~~ oral care, ~~with~~ care of the hair, or and ~~with~~ 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 toileting includes assistance with~~ the routine emptying of a catheter or ostomy bag.

(7)(6) "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)(7) through (9)(8) No change.

(10)(9) "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 ~~to~~ gaining access to needed medical, mental health, social, housing, educational or other services; monitoring service delivery; and evaluating the effects of service delivery.

(11)(10) "Certified Nursing Assistant (CNA)" means an individual a person 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)(11) "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., Chapters 408, Part II, 429, Part I, F.S., and Rule Chapter 59A-35, F.A.C., and this rule chapter.

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

(15)(13) through (16)(14) No change.

(17)(15) "Food Service" means the storage, preparation, ~~service serving~~, and cleaning 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)(16) No change.

(20)(17) "Licensed Dietitian or Nutritionist" means a dietitian or nutritionist licensed under in accordance with Section Chapter 468.509, 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)(18) No change.

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

(24)(20) through (27)(23) No change.

(28)(24) "Nursing Assessment" means a written review of information collected from observation ~~of~~ 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)(25) "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 ~~pursuant to~~ in a facility with a limited nursing or extended congregate care license. The progress notes must be completed by the nurse who delivered the service; ~~and~~ 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)(26) No change.

(31)(27) "Owner" means ~~a the~~ person, partnership, association, limited liability company, or corporation, that which owns or leases the facility that ~~and~~ 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)(28) No change.

(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)(29) No change.

(30) "Renovation" means additions, repairs, restorations, or other improvements to the physical plant of the facility within a 5 year period that costs in excess of 50 percent of the value of the building as reported on the tax rolls, ~~excluding land, before the renovation.~~

(35)(31) No change.

(36)(32) "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, a short-term illnesses such as a 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)(33)~~ “Staff” means any individual employed by a facility, ~~or contracting with a facility to provide direct or indirect services to residents,; or employed by a employees of firms under contract with a to the 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)(34)~~ No change.

~~(39)(35)~~ “Third Party” means any individual or business entity providing services to residents in a facility that who is not staff of the facility.

~~(40)(36)~~ “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. Under Universal precautions require that the, blood and certain body fluids of all residents be are considered potentially infectious for HIV, HBV, and other bloodborne pathogens.

~~(41)(37)~~ “Unscheduled Service Need” means a need for a personal service, nursing service, or mental health intervention that generally cannot be predicted in advance of the need for service, and that must be met promptly to ensure within a time frame that provides reasonable assurance that the health, safety, and welfare of residents is preserved.

Rulemaking Authority 429.23, 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, 10-17-99, 1-9-02, 7-30-06, 4-15-10, 4-17-14,_____.

58A-5.014 Licensing and Change of Ownership.

(1) LICENSE APPLICATION. An applicant for a standard assisted living facility license, ~~or 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., and 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) No change.

(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 ~~for whom funds are held by the facility.~~

(c) No change.

(3) through (4) No change.

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,_____.

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. No change.

2. Be free from signs and symptoms of any 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 the individual would otherwise be eligible for admission according to this rule.

3. through 4. No change.

5. Be capable of taking medication, by either self-administration, assistance with self-administration, or by 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 ~~has~~ 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 licensed third party licensed to provide this service to the resident.

6. through 9. No change.

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~~ Such 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 services are provided pursuant to a plan of care issued by a health care provider, ~~or the resident contracts directly with a licensed home health agency or a nurse to provide care;~~

b. The condition is documented in the resident's record and admission and discharge logs; and

c. No change.

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 ~~Oral, nasopharyngeal, or tracheotomy suctioning;~~

b. through c. No change.

d. Management of post-surgical drainage tubes and wound vacuum devices; ~~Intermittent positive pressure breathing therapy; or~~

e. The administration of blood products in the facility; or

f.e. Treatment of surgical incisions or wounds, unless the surgical incision or wound and the underlying condition that caused it, 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.

~~13-12.~~ through ~~1413.~~ No change.

~~1514.~~ Be appropriate for admission to the facility as ~~Have been determined by the facility administrator to be appropriate for admission to the facility.~~ The administrator must base the determination decision on:

a. An assessment of the strengths, needs, and preferences of the individual; ~~and~~

b. The medical examination report required by Section 429.26, F.S., and subsection (2) of this rule, if available;

~~c.b.~~ No change.

~~d.e.~~ The ability of the facility to meet the uniform fire safety standards for assisted living facilities established in ~~Section 429.41, F.S. and 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, ~~or assistance and monitoring of the application of anti-embolism stockings or hosiery as prescribed by a health care provider in accordance with manufacturer's guidelines,~~ may be admitted to a facility with a standard license as long as ~~the following conditions are met:~~

~~1.~~ The facility has must have 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)2.~~ 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, ~~as defined in Section 429.256(1)(b), F.S. Certified nursing assistants may not be delegated the nursing services described in this section, but may apply anti-embolism stockings or hosiery under the supervision of a nurse in accordance with paragraph 64B9-15.002(1)(e), F.A.C.~~ 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)~~(e) 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)~~(d)~~ No change.

(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 ~~to~~ the individual's admission to a facility pursuant to Section 429.26(4), F.S. The examination must address the following:

1. through 8. No change

(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, October 2010. The form which is hereby incorporated by reference, and~~ available online at: <http://www.flrules.org/Gateway/reference.asp?No=Ref-09170> ~~AHCA Form 1823 may be obtained <http://www.flrules.org/Gateway/reference.asp?No=Ref-04006>.~~ Faxed or electronic copies of the completed form are acceptable. The form must be completed as instructed.

1. Items on the form that ~~may~~ have been omitted by the health care provider during the examination ~~do not necessarily require an additional face-to-face examination for completion. The facility may be obtained by the facility omitted information~~ either orally or in writing from the health care provider.

2. through 3. No change.

(c) through (e) No change.

(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 ~~issued by the health care provider conducting the medical examination~~ 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~~ A copy of the facility resident contract or facility brochure containing all the required information ~~must meet~~ this requirement.

1. through 11. No change.

12. ~~If the facility is licensed to provide extended congregate care, the facility's residency criteria for residents receiving extended congregate care services. If the facility also has an extended congregate care license; and 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, ~~if any~~, on where extended congregate care residents may ~~must~~ reside based on the policies and procedures described in Rule 58A-5.030, F.A.C.;

13. through 14. No change.

(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. through 4. No change.

(c) No change.

(4) CONTINUED RESIDENCY. Except as follows in paragraphs (a) through ~~(c)~~(e) 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. The form~~ 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 up to 7 consecutive days.

(b) No change.

(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 the services from of a licensed hospice that coordinates and ensures the provision of any additional care and services that the resident may need; be needed;

2. Both the resident, or the resident's legal representative if applicable, and the facility agree to continued Continued residency; is agreeable to the resident and the facility,

3. A licensed hospice, in consultation with the facility, develops and implements a An interdisciplinary care plan that, 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,

4. No change.

(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) through (g) No change.

(5) No change.

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, _____.

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) through (c) No change.

(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)(e) 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) No change.

(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) through (d) No change.

(3) through (5) No change.

(6) RESIDENT RIGHTS AND FACILITY PROCEDURES.

(a) No change.

(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 for residents 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. No change.
2. Alcohol and tobacco use;
3. through 8. No change.

(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 unless the facility rules or the facility contract includes such a requirement that residents be responsible for cleaning their own sleeping areas or apartments. 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 not prohibit 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) through (b) No change.

(c) If residents accept ~~the~~ assistance from the facility in arranging and coordinating to arrange and coordinate 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 ~~this~~ 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 Rule 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 Rule 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. Staff attention must be directed towards residents assessed at high risk for elopement, with special attention given to those with Alzheimer's disease or related disorders assessed at high risk.

2. ~~At a minimum,~~ 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 within 10 days of admission or upon within 10 days of 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) through (c) No change.

(9) No change.

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,_____.

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) No change.

(2) PILL ORGANIZERS.

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

~~(a)(b) Only a A resident who self-administers medications may maintain use a pill organizer.~~

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

(c) through (d) No change.

(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) through (e) No change.

(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)(h), 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)(i), 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) No change.

(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 testing, such as blood glucose testing,~~ 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) No change.

(5) MEDICATION RECORDS.

(a) No change.

(b) The facility must maintain a daily medication observation record ~~(MOR)~~ 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~~ a chart for recording each time the medication is taken, any missed dosages, refusals to take medication as prescribed, or medication errors. ~~The medication observation record must be immediately updated each time the medication is offered or administered.~~

(c) No change.

(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 ~~or~~ in their rooms or apartments if either the room is, which must be kept locked when residents are absent or, unless the medication is stored in a secure place within the rooms or apartments or in some other secure place that is out of sight of other residents.

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

1. through 4. No change.

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. No change.

(c)(b) 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. No change.

(d)(e) No change.

(e)(d) 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)(e).

(f)(e) through (g)(f) No change.

(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 ~~it is~~ 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. No change.

2. The ~~i~~Identification of each medicinal drug in the container.

(b) through (c) No change.

(d) Any change in directions for use of a medication that for which the facility is administering or providing assistance with self-administration ~~or administering medication~~ must be accompanied by a written, faxed, or electronic copy of a medication order issued and signed by the resident's health care provider, or a faxed or electronic copy of such order. 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, or obtain a revised label from the pharmacist.

(e) through (h) No change.

(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 is not permitted in any facility. 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) through (d) No change.

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, _____.

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. through 2. No change.
3. Be in compliance with Level 2 background screening requirements pursuant to Sections 408.809 and 429.174, F.S.; ~~and,~~
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. ~~Individuals who have successfully completed these requirements before December 1, 2014, are not required to take either the 40 hour core training or test unless specified elsewhere in this rule.~~ 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. No change.

(b) through (c) No change.

(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 of~~ an administrator pursuant to paragraph (1)(a) of this rule. Managers who attended the core training program prior to ~~April 20, 1998, July 1, 1997,~~ 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 May—2013,~~ which is incorporated by reference and available online at: <http://www.flrules.org/Gateway/reference.asp?No=Ref-09171>
~~<http://www.flrules.org/Gateway/reference.asp?No=Ref-04002>.~~

(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, shall satisfy~~ 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. No change.

(b) through (f) No change.

(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 and who receive no personal, limited nursing, or extended congregate care services, are not counted as a residents for purposes of computing minimum staff hours.

3. through 4. No change.

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 Rule 58A-5.0191(5), F.A.C., offered by an accredited college, university or vocational school; a licensed hospital; the American Red Cross, American Heart Association, or National Safety Council; or a provider approved by the Department of Health, satisfies this requirement.

b. A nurse is considered as having met the course requirements for both First Aid and CPR. ~~An~~ In addition, 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. through 9. No change.

(b) No change.

(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, ~~for that resident's care.~~

(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 ~~Section 429.41(1)(a), F.S., and~~ 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 ~~the plan~~ increases the staffing levels ~~staff to needed 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 ~~modifications may be made in~~ staffing requirements for the facility and the facility will no longer be required to maintain a plan with the agency.

(e) through (f) No change.

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, _____.

58A-5.0191 Staff Training Requirements and Competency Test.

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

(a) through (b) No change.

(c) Administrators and managers shall participate in 12 hours of continuing education in topics related to assisted living every 2 years ~~as provided under Section 429.52, F.S.~~

(d) through (e) No change.

(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)~~(2) 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 major incidents.~~

~~1.2.~~ through ~~2.3.~~ No change.

(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. No change.

2. Recognizing and reporting resident abuse, neglect, and exploitation. The facility must use its abuse prevention policies and procedures when offering this training.

(d) through (f) No change.

~~(4)~~(3) No change.

~~(5)~~(4) 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 ~~of attendance at First Aid or CPR course offered by an accredited college, university or vocational school; a licensed hospital; the American Red Cross, the American Heart Association, or the National Safety Council;~~ or an organization whose training is accredited by the Commission on Accreditation for Pre-Hospital Continuing Education a provider approved by the Department of Health satisfies this requirement, shall satisfy this requirement.

(b) No change.

~~(6)(5)~~ ASSISTANCE WITH THE SELF-ADMINISTRATION OF ADMINISTERED MEDICATION AND MEDICATION MANAGEMENT. Unlicensed persons who will be providing assistance with the self-administration of self-administered medications as described in Rule 58A-5.0185, F.A.C., must meet the training requirements pursuant to Section 429.52~~(6)(5)~~, F.S., prior to assuming this responsibility. Courses provided in fulfillment 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 provide opportunities for hands-on learning through practice exercises.

(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 an ability to:

1. No change.

2. Provide assistance with self-administration in accordance with Section 429.256, F.S. and Rule 58A-5.0185, F.A.C., including:

a. through e. No change.

f. Retrieve and store medication; and

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 4 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 shall only be provided by a licensed registered nurse, or a licensed pharmacist.

(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)(6) 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 Rule 58A-5.020(1)(b). A certified food manager, licensed dietician, registered dietary technician or health department ~~sanitarian is~~ ~~sanitarians are~~ qualified to train assisted living facility staff in nutrition and food service.

(8)(7) EXTENDED CONGREGATE CARE (ECC) TRAINING.

(a) The administrator and ECC ~~extended-congregate-care~~ supervisor, if different from the administrator, must complete core training and 4 hours of initial training in extended congregate care prior to the facility's receiving its ECC ~~extended-congregate-care~~ license or within 3 months of beginning employment in a currently licensed ECC ~~the~~ 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 ~~extended-congregate-care~~ 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 ~~extended-congregate-care~~ 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 ~~extended-congregate-care~~ concepts and requirements, including statutory and rule requirements, and the delivery of personal care and supportive services in an ECC ~~extended-congregate-care~~ facility.

(9)(8) 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. No change.

~~b. Staff in "direct contact" means direct care staff and staff whose duties take them into resident living areas and require them to interact with mental health residents on a daily basis. The term does not include maintenance, food service or administrative staff, if such staff have only incidental contact with mental health residents.~~

b.e. 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)(4), 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. No change.

b. Mental health treatment such as;

(I) ~~M~~mental health needs, services, behaviors and appropriate interventions;

(II) ~~R~~resident progress in achieving treatment goals;

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

(IV) ~~C~~erisis 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)(4), F.S., and subsection (1) of this rule.

4. No change.

(b) No change.

(10)(9) 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 434464.4.6 of the Florida Building Code, as adopted in Rule 61G20-1.001 9N-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 have regular contact with or 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. ~~“Staff who have regular contact” means staff who interact on a daily basis with residents but do not provide direct care to residents.~~ Initial training, entitled “Alzheimer’s Disease and Related Disorders Level I Training,” must address the following subject areas:

1. through 6. No change.

(b) Staff who have successfully completed ~~received~~ 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) through (h) No change.

~~(10) ALZHEIMER’S DISEASE AND RELATED DISORDERS (“ADR”) TRAINING PROVIDER AND CURRICULUM APPROVAL.~~

~~(a) The training provider and curriculum shall be approved by the department or its designee prior to commencing training activities. The department or its designee shall maintain a list of approved ADRD training providers and curricula. Approval as a training provider and approval of the curriculum may be obtained as follows:~~

~~1. Applicants seeking approval as ADRD training providers shall complete DOEA form ALF/ADR-001, Application for Alzheimer’s Disease and Related Disorders Training Provider Certification, dated March 2005, which is incorporated by reference and available at the Department of Elder Affairs, 4040 Esplanade Way, Tallahassee, Florida 32399-7000.~~

~~2. Applicants seeking approval of ADRD curricula shall complete DOEA form ALF/ADR-002, Application for Alzheimer’s Disease and Related Disorders Training Three-Year Curriculum Certification, dated March 2005, which is incorporated by reference and available at the Department of Elder Affairs, 4040 Esplanade Way, Tallahassee, Florida 32399-7000. Approval of the curriculum shall be granted for 3 years, whereupon the curriculum shall be re-submitted to the department or its designee for re-approval.~~

~~(b) Approved ADRD training providers must maintain records of each course taught for a period of 3 years following each program presentation. Course records shall include the title of the approved ADRD 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.~~

~~(c) Upon successful completion of training, the trainee shall be issued a certificate by the approved training provider. The certificate shall include the title of the approved training and the curriculum approval number, the number of hours of training, the trainee’s name, dates of attendance, location and the training provider’s name, approval number and dated signature. The training provider’s signature on the certificate shall serve as documentation that the training provider has verified that the trainee has completed the required training pursuant to Section 429.178, F.S.~~

~~(d) 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 on the basis of non-adherence to approved curriculum, the provider’s failure to maintain required training credentials, or if the provider is found to knowingly disseminate any false or misleading information.~~

~~(e) Except as otherwise noted, certificates of any ADRD training required by this rule shall be documented in the facility’s personnel files.~~

~~(f) ADRD training providers and training curricula which are approved consistent with the provisions of Sections 429.1755, 429.6045 and 429.5571, F.S., shall be considered as having met the requirements of paragraph (9)(a) and subsection (10) of this rule.~~

~~(10)(4) 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 DNROs within 60 days after the effective date of this rule.

(b) through (c) No change.

~~(11)(12)~~ No change.

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, _____.

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 and the term "resident" includes day care participants and respite care residents.

(1) FACILITY RECORDS. Facility records must include:

(a) through (j) No change.

(k) All fire safety inspection reports issued by the local fire safety 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) through (o) No change.

(p) The facility's infection control policies and procedures.

1. The facility's infection control policy must include:

a. A hand hygiene program which includes sanitation of the hands through the use of alcohol-based hand rubs or soap and water before and after each resident contact.

b. Use of gloves during each resident contact where contact with blood, potentially infectious materials, mucous membranes, and non-intact skin could occur.

c. The safe use of blood glucometers to ensure finger stick devices and glucometers are restricted to a single resident. Lancets should be disposed in an approved sharps container and never reused. Glucometers should be cleaned and disinfected after every use, per manufacturer's instructions, to prevent carry-over of blood and infectious agents.

d. Medication practices including adherence to standard precautions to prevent the transmission of infections in a residential setting.

e. Staff identification, reporting, and prevention of pest infestations such as bed bugs, lice, and fleas.

(q) The facility's abuse prevention policies and procedures.

~~(r)(p)~~ No change.

(2) No change.

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

(a) Resident demographic data as follows:

1. through 8. No change.

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

(b) No change.

(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. Records of residents receiving nursing services from a third party must contain all orders for nursing services, all nursing assessments, and all nursing progress notes for services provided by the third party nursing services provider. Facilities that do not have such documentation but that can demonstrate that they have made a good faith effort to obtain such documentation may not be cited for violating this paragraph. A documented request for such missing documentation made by the facility administrator within the previous 30 days 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.

(d) No change.

(e) The resident care record described in paragraph 58A-5.0182(1)(f)(e), F.A.C.

(f) through (o) No change.

(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) through (r) No change.

(4) No change.

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-5.029 Limited Mental Health.

(1) LICENSE APPLICATION.

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

(b) No change.

(2) RECORDS.

(a) through (b) No change.

(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 ~~3474~~, 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 psychiatric disorder,

b. through c. No change.

2. No change.

3. A Community Living Support Plan. a. 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. (I) through g. (VII)~~ No change.

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

~~i. (IX) through j. (X)~~ No change.

~~b. Those portions of a service or treatment plan prepared pursuant to Rule 65E-4.014, F.A.C., that address all the elements listed in sub-subparagraph (2)(c)3.a. above may be substituted.~~

4. No change.

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 Department of Children and Families, or the mental health care provider. 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) through (e) No change.

~~(f)(e)~~ 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,_____.

58A-5.030 Extended Congregate Care Services.

(1) through (2) No change.

~~(3) PHYSICAL SITE REQUIREMENTS. Each extended congregate care facility must provide a homelike physical environment that promotes resident privacy and independence including:~~

~~(a) A private room or apartment, or a semi-private room or apartment, shared with a roommate of the resident's choice. The entry door to the room or apartment must have a lock that is operable from the inside by the resident with no key needed. The resident must be provided with a key to the entry door on request. The resident's service plan may allow for a non-locking entry door if the resident's safety would otherwise be jeopardized; and~~

~~(b) A bathroom, with a toilet, sink, and bathtub or shower, that is shared by a maximum of 4 residents for a maximum ratio of 4 residents to 1 bathroom.~~

~~1. A centrally located hydro-massage bathtub may substitute for a bathtub or shower and be considered equivalent to two bathrooms, increasing the resident to bathroom ratio from four to one to eight to one. The substitution of a centrally located hydro-massage bathtub for a bathtub or shower that increases the resident to bathtub ratio above four to one may occur only once in a facility. The one-time substitution of a centrally located hydro-massage bathtub does not preclude the installation of multiple hydro-massage bathtubs in the facility. The limitation applies only to the one-time reduction in the total number of bathtubs in the facility.~~

~~2. The entry door to the bathroom must have a lock that the resident can operate from the inside with no key needed. The resident's service plan may allow for a non-locking bathroom door if the resident's safety would otherwise be jeopardized.~~

~~(3)(4)~~ No change.

~~(4)(5)~~ ADMISSION AND CONTINUED RESIDENCY.

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

1. through 6. No change.

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 ~~Oral or nasopharyngeal suctioning,~~

b. through c. No change.

d. Management of post-surgical drainage tubes or wound vacuums ~~Intermittent positive pressure breathing therapy,~~

e. No change.

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. No change.

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. through b. No change.

c. The ability of the facility to meet the uniform fire safety standards for assisted living facilities established in Section 429.41, F.S. and Rule Chapter 69A-40, F.A.C.

(b) No change.

~~(5)(6)~~ through ~~(9)(10)~~ No change.

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,_____.

58A-5.031 Limited Nursing Services.

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

(1) NURSING SERVICES. A facility with a limited nursing services license may provide the following 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.

~~(a) Conducting passive range of motion exercises.~~

~~(b) Applying ice caps or collars.~~

~~(c) Applying heat, including dry heat, hot water bottle, heating pad, aquathermia, moist heat, hot compresses, sitz bath and hot soaks.~~

~~(d) Cutting the toenails of diabetic residents or residents with a documented circulatory problem if the written approval of the resident's health care provider has been obtained.~~

~~(e) Performing ear and eye irrigations.~~

~~(f) Conducting a urine dipstick test.~~

~~(g) Replacing of an established self-maintained indwelling urinary catheter, or inserting an intermittent urinary catheter.~~

~~(h) Performing digital stool removal therapies.~~

~~(i) Applying and changing routine dressings that do not require packing or irrigation, but are for abrasions, skin tears and closed surgical wounds.~~

~~(j) Caring for stage 2 pressure sores. Caring for stage 3 or 4 pressure sores is not permitted by a facility with a limited nursing services license.~~

~~(k) Caring for casts, braces and splints. Caring for head braces, such as a halo is not permitted by a facility with a limited nursing services license.~~

~~(l) Conducting nursing assessments if conducted by a registered nurse or under the direct supervision of a registered nurse.~~

~~(m) Providing any nursing service permitted under the facility's license and total help with the activities of daily living for residents admitted to hospice as described in subsection 58A-5.0181(4), F.A.C.; however, staff may not exceed the scope of their professional licensure.~~

~~(n) Assisting, applying, caring for and monitoring the application of anti-embolism stockings or hosiery as prescribed by the health care provider and in accordance with the manufacturers' guidelines.~~

~~(o) Administration and regulation of portable oxygen.~~

~~(p) Applying, caring for and monitoring a transcutaneous electric nerve stimulator (TENS).~~

~~(q) Catheter, colostomy, ileostomy care and maintenance.~~

(2) RESIDENT CARE STANDARDS.

(a) through (c) No change.

(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 provide 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) through (c) No change.

Rulemaking Authority 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.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jeanne Curtin, Deputy General Counsel, Department of Elder Affairs.

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Jeffrey S. Bragg
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