

DEPARTMENT OF ELDER AFFAIRS

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58A-1.001 Definitions.

(1) **ADULT DAY CARE** is a program of therapeutic social and health activities and services provided to adults who have functional impairments, in a protective environment that provides as noninstitutional an environment as possible.

(2) **ADVOCACY** or Representation is action taken on behalf of an older person to secure his or her rights or benefits. It includes receiving, investigating and working to resolve disputes or complaints informally. Advocacy or Representation within these rules does not pertain to services provided by an attorney or person under the supervision of an attorney.

(3) **AREA AGENCY ON AGING** means an agency designated by the Department to develop and administer an Area Plan for a comprehensive and coordinated service system for older persons in a Planning and Service Area (PSA). The Area Agency on Aging may also be referred to as an Area Agency.

(4) **AREA PLAN** means the document submitted by an Area Agency on Aging to the Department of Elder Affairs in order to receive subgrants or contracts under the Older Americans Act. The Plan details the manner in which the Area Agency on Aging will furnish a comprehensive and coordinated system of services for older persons throughout the planning and service area.

(5) **CASE MANAGEMENT** is a client centered series of activities which includes planning, arrangement for, coordination of community-based services for an eligible client. Case Management is a service which may be delivered in the absence of other services. Case Management activities include intake and referral, comprehensive assessment and reassessment, development of a care plan with planned client outcomes, assistance in helping clients to obtain community resources, follow-up contacts for the purpose of monitoring client progress to assure effective delivery of services, and travel time related to the client's case.

(6) **CHORE** is performance of house or yard tasks including such jobs as seasonal cleaning, essential errands, yard work, lifting and moving, simple household repairs, pest control, and household maintenance for eligible persons who are unable to do these tasks for themselves because of frailty or other disabling conditions.

(7) **COMPANIONSHIP** is visiting a client who is socially or geographically isolated, for the purpose of relieving loneliness and providing continuing social contact with the community by casual conversation, providing assistance with reading, writing letters, or entertaining games.

(8) **CONGREGATE MEALS** means a meal provided to an eligible client or other eligible participant, at a congregate meal site which:

(a) Complies with the Dietary Guidelines for Americans (published by the Secretaries of the Department of Health and Human Services and the United States Department of Agriculture); and,

(b) Provides a minimum of thirty-three and one-third percent of the daily Recommended Dietary Allowances (RDA, Food and Nutrition Board of the National Academy of Sciences).

(9) **COUNSELING** uses the casework mode of relating to a client (via interview, discussion or lending a sympathetic ear) to advise and enable the older person or his or her family to resolve problems (concrete or emotional) or to relieve temporary stresses encountered by them. This shall either be done on a one-to-one basis or a group basis and shall be conducted by paid, donated, or volunteer staff.

(a) Counseling includes assisting older individuals with permanency planning for adult children with disabilities.

(b) Gerontological Counseling provides emotional support, information and guidance through a variety of modalities including mutual support groups for older adults who are having mental, emotional or social adjustment problems that have arisen as a result of the process of aging. Gerontological Counseling can also be conducted on a one on one basis.

(c) Pre-retirement counseling and post-retirement assistance is included.

(d) Social Services Counseling provides linkages to other services which might be beneficial to an individual client or a group of clients. Social Service Counseling includes referral and follow-up to all manner of social and health services.

(10) **DEPARTMENT** means the Department of Elder Affairs established by Section 20.41, F.S., and encompasses responsibilities for all federal aging programs pursuant to ch. 91-115, Laws of Florida.

(11) **DISCOUNT** is a reduction made on goods or services from a regular or list price.

(12) **DISEASE INFORMATION** is providing information to individuals, families, caregivers, and the general public about chronic conditions and diseases; what prevention measures and services are available; how to prevent the seriousness of the effects once the condition is present; treatment, rehabilitation, and coping strategies for those factors which cannot change.

Services include information concerning diagnosis, prevention, treatment and rehabilitation of age-related diseases and chronic disabling conditions. Osteoporosis, cardiovascular diseases, incontinence, and Alzheimer's disease and related disorders with neurological and organic brain dysfunction are examples of such conditions.

(13) EDUCATION or TRAINING is:

(a) providing formal or informal opportunities for individuals to acquire knowledge, experience or skills. It includes individual or group events designed to increase awareness in such areas as nutrition, crime or accident prevention; promote personal enrichment, for example, through continuing education; to increase or gain skills in a specific craft, trade, job or occupation.

(b) conducting training for individuals, professionals, and paraprofessionals in relevant fields on the identification, prevention and treatment of elder abuse, neglect and exploitation with particular focus on prevention and enhancement of self-determination and autonomy.

(14) EMERGENCY ALERT RESPONSE service means a community based electronic surveillance service system established to monitor the frail homebound elderly by means of an electronic communication link with a response center which will alert and dispatch properly qualified assistance to the client in need on a 24 hour, seven days a week basis.

(15) EMPLOYMENT is assisting an individual to secure paid employment. This includes part time, full time, or temporary employment.

(16) ESCORT is personal accompaniment of individuals to or from service providers. Escorts may also provide language interpretation to people who have hearing or speech impairments or speak a foreign language.

(17) HEALTH PROMOTION Programs are programs that offer individual or group sessions which assist participants to understand how their lifestyle impacts their physical and mental health and to develop personal practices that enhance their total well-being.

(18) HEALTH RISK ASSESSMENT is an assessment utilizing one or a combination of diagnostic tools to test older persons for certain risk factors that are known to be associated with a disease or condition. Many factors are modifiable, including diet, risk taking behaviors, coping styles, and life style choices (such as smoking and overeating), and can be measured or identified through risk appraisal questionnaires. An individual may be aware of specific risk factors, such as inadequate nutrition, which make future compromised health more likely. The Health Risk Assessment helps the individual to determine the additive nature of many factors in an individual's life. The risks are greatly increased with each additional factor an individual has. For example, someone who smokes, overeats, doesn't exercise and has a history of heart disease in the family has a greatly elevated risk of future health problems. Any of those factors which are modified can increase the likelihood of a more positive health outcome. Modifying all of the factors above over which the individual has control, all but heredity, greatly increases the possibility of healthy aging.

(19) HEALTH RISK SCREENING is defined as services which utilize diagnostic tools to screen large groups of people or individuals for the presence of a particular disease or condition.

(20) HEALTH SUPPORT is defined as activities to assist persons to secure and utilize medical treatment as well as preventive, emergency and health maintenance services. Examples of Health Support services include obtaining appointments for treatment; locating health and medical facilities; obtaining therapy; obtaining clinic cards for clients; wellness programs, including regular or occasional health screenings to detect illness or a worsening of health conditions of older persons; physical activities, including regular exercise programs, weight control emphasis; and activities to reduce mental fatigue, stress, or boredom.

(21) HOME DELIVERED MEAL is a hot, cold, frozen, dried, canned, or supplemental food (with a satisfactory storage life) meal that meets a minimum of thirty-three and one-third percent of the daily Recommended Dietary Allowances (RDA, Food and Nutrition Board of the National Academy of Sciences), served in the home to a functionally impaired homebound older person.

(22) HOME HEALTH AIDE service is the provision of medically oriented personal health care services by a trained home health agency to an individual in the home under the supervision of a health professional.

(23) HOME INJURY CONTROL Services are services which are aimed at preventing or reducing the extent of damage due to a fall or other preventable injury of elders in their homes.

(24) HOMEMAKER service is the accomplishment of specific home management duties including housekeeping, meal planning and preparation, shopping assistance, and routine household activities by a trained homemaker.

(25) HOME NURSING SERVICE.

(a) Home nursing service is part-time or intermittent nursing care administered to an individual by a licensed practical nurse, registered nurse, or advanced registered nurse practitioner, in the individual's place of residence, pursuant to a plan of care approved by a licensed physician and in accordance with Sections 440.462(6), 400.464(5)(a), 410.0241, and Chapter 464, F.S.

(b) The objective of home nursing services is to provide services which assist the individual in his or her efforts to maintain an optimal level of health of body and mind, to prevent the occurrence or progression of illness, to provide services that the individual would do for him or herself if able or to provide comfort to the terminally ill.

(26) HOUSING IMPROVEMENT or EMERGENCY HOME REPAIR is providing home repairs or alterations for an eligible person or assistance in obtaining needed repairs or alterations for the client's home; arranging for home improvement grants or loans; providing assistance to obtain adequate housing; securing fuel and utilities, and provision of pest exterminating services.

(27) INFORMATION is responding to an inquiry from a person, or on behalf of a person, regarding resources and available services.

(28) INTERPRETING or TRANSLATING is explaining the meaning of oral or written communication to non-English speaking or handicapped persons unable to perform the functions.

(29) LEGAL ASSISTANCE.

(a) Legal Assistance is legal advice and representation by an attorney (including counseling or assistance by a paralegal or law student under the supervision of an attorney), and includes counseling or representation by a non-lawyer when permitted by law, to older individuals with economic or social need.

(b) Legal Assistance for program delivery purposes is defined as services to assist clients to become aware of and protect their civil or legal rights through activities or direct intervention by attorneys or legal paraprofessionals.

(30) LETTER WRITING or READING is reading or writing business or personal correspondence.

(31) MATERIAL AID is aid in the form of goods or food such as the direct distribution of commodities, surplus food, the distribution of clothing, smoke detectors, eyeglasses, security devices, etc.

(32) MEDICAL THERAPEUTIC SERVICES means those corrective or rehabilitative services which are prescribed by a physician or other health care professional in accordance with Sections 400.462(6), 400.464(5)(a), 410.0241 and Chapter 464, F.S. Such services are designed to assist the functionally impaired older person to maintain or regain sufficient functional skills to live independently in his or her place of residence and include physical, occupational, respiratory, hearing disorder or speech-language therapy.

(33) MEDICARE EDUCATION is defined as activities designed to inform older persons on the availability, benefits, and use of preventive health services which are available under Medicare.

(34) MEDICATION MANAGEMENT screening and education is identification and counseling regarding the medication regime that individuals are using, including prescription and over the counter medications, vitamins and home remedies. These services also help to identify any dietary factors and the effect of alcohol or tobacco which may interact with the medication regime.

(35) MENTAL HEALTH SCREENING is the provision of examination, diagnostic and treatment planning services for elders who experience acute or chronic mental or emotional problems. Included is referral to psychiatric or psychological services.

(36) MULTIPURPOSE SENIOR CENTER means a community or neighborhood facility for the organization and provision of health, social, nutritional and educational services and for recreational and group activities for older persons.

(37) NUTRITION COUNSELING provides individualized advice and guidance to individuals, who are at nutritional risk because of their nutritional history, current dietary intake, medications use or chronic illnesses, about options and methods for improving their nutritional status, provided by a registered licensed dietitian or other health professional functioning within their legal scope of practice.

(38) NUTRITION EDUCATION.

(a) CONGREGATE NUTRITION EDUCATION is a formal program of regularly scheduled presentations that promote better health by providing accurate and culturally sensitive nutrition, physical fitness, or health (as it relates to nutrition) information and instruction to participants in a group setting overseen by a dietitian or individual of comparable expertise.

(b) HOME DELIVERED NUTRITION EDUCATION or Nutrition Education for home-bound clients is a formal program that promotes better health by providing accurate and culturally sensitive nutrition, physical fitness, or health (as it relates to nutrition) information and instruction to participants or caregivers in a group or individual setting overseen by a dietitian or individual of comparable expertise.

(39) OLDER AMERICANS ACT means the Older Americans Act of 1965, as amended, 42 U.S. Code 3001 – 3058ee. The Act is the principal statutory authority for federal grants for state and local community programs for older persons and is available in the Office of the Secretary and at each Area Agency on Aging, and herein incorporated by reference.

(40) OUTREACH is defined as making active efforts to reach target group individuals, either in a community setting or in a neighborhood with large numbers of low income minority elderly, making one-to-one contact, identifying their service need, and encouraging their use of available resources.

(41) PERSONAL CARE means services to assist the functionally impaired elderly with bathing, dressing, ambulation, housekeeping, supervision, emotional security, eating and assistance with securing health care. Personal Care Services do not include medical services.

(42) PHYSICAL FITNESS PROGRAMS are programs that provide activities for people who want to improve their strength, flexibility, endurance, muscle tone, range of motion, reflexes, cardiovascular health or other aspects of physical functioning.

(43) PLACEMENT is assisting a person in obtaining a suitable place or situation such as housing or an institution such as a nursing home.

(44) PLANNING AND SERVICE AREA (PSA) means a geographic area of Florida designated by the Department (the State Unit on Aging) for purposes of planning, development, delivery and administration of services under an Area Plan. In order for a State to be eligible to participate in programs under the Older Americans Act, the State Agency shall, in accordance with Section 305(a)(1)(E) of the Older Americans Act and federal regulations 45 CFR 1321.7(b), divide the State into distinct planning & service areas or area (PSA's). The Planning and Service Areas (PSA's) cover the following counties: PSA 1- Escambia, Okaloosa, Santa Rosa, Walton; PSA 2- Bay, Calhoun, Franklin, Gadsden, Gulf, Holmes, Jackson, Jefferson, Leon, Liberty, Madison, Taylor, Wakulla, Washington; PSA 3- Alachua, Bradford, Citrus, Columbia, Dixie, Gilchrist, Hamilton, Hernando, Lafayette, Lake, Levy, Marion, Putnam, Sumter, Suwannee, Union; PSA 4- Baker, Clay, Duval, Flagler, Nassau, St. Johns, Volusia; PSA 5- Pasco,

Pinellas; PSA 6- Hardee, Highlands, Hillsborough, Manatee, Polk; PSA 7- Brevard, Orange, Osceola, Seminole; PSA 8- Charlotte, Collier, DeSoto, Glades, Hendry, Lee, Sarasota, the Seminole Indian Reservations; PSA 9- Indian River, Martin, Okeechobee, Palm Beach, St. Lucie; PSA 10- Broward; PSA 11- Dade, Monroe.

(45) PROGRAMS AND SERVICES MANUAL is the Department of Elder Affairs Programs and Services Manual, dated July 1994 and revised November 1994, available in the Office of the Secretary and at each Area Agency on Aging, and herein incorporated by reference.

(46) RECREATION is participation in or attendance at planned leisure events such as, games, sports, arts and crafts, theater, trips and other relaxing social activities.

(47) REFERRAL is an activity wherein information is obtained on a person's needs and the person is directed to a particular resource; contact with the resource is made for the person as needed; follow-up is conducted with the referred person or resource to determine the outcome of the referral. Agencies making referrals will usually obtain intake information from the client to be used as part of the referral process.

(48) RESPITE CARE is a demand for relief or rest from the constant or continued supervision, companionship, therapeutic or personal care, of a functionally impaired older person for a specified period of time.

(49) SCREENING or Assessment is administering standard examinations, screening instruments, procedures or tests for purpose of gathering information about an applicant for services or a current client to determine need or eligibility for services.

(50) SECRETARY means the Secretary of the Department of Elder Affairs.

(51) SERVICE PROVIDER or local project means an entity that is awarded a contract from an Area Agency on Aging to provide services under an Area Plan.

(52) SHOPPING ASSISTANCE is assisting a client in getting to and from stores and in the proper selection of items. An individual Shopping Aide may assist more than one client during a shopping trip.

(53) STATE PLAN ON AGING means the document submitted by the Florida Department of Elder Affairs to the U.S. Department of Health and Human Services, Administration on Aging, to receive grants under the Older Americans Act, Commissioner on Aging of the U.S. Dept. of Health and Human Services.

(54) STATE UNIT ON AGING means the Department of Elder Affairs, designated by Section 10 of Chapter 91-115, Laws of Florida, for the administration of programs under the federal Older Americans Act.

(55) SUPERVISION is overseeing actions or behavior of a client to safeguard his rights and interest for the purpose of protection against harm to self or others.

(56) TELEPHONE REASSURANCE is communicating with designated clients by telephone on a mutually agreed schedule to determine their safety and to provide psychological reassurance, or to implement special or emergency assistance.

(57) TRANSPORTATION is travel to or from service providers or community resources.

Specific Authority 20.41(2), 410.016(2)(k), 430.08 FS., ch. 91-115, s. 10, Laws of Fla. Law Implemented 20.41(2), 410.011, 410.016, 430.03(6) FS., ch. 91-115, Laws of Fla. History—New 12-23-81, Formerly 10A-11.01, 10A-11.001, Amended 3-28-95.

58A-1.002 Department Duties Under Federal Aging Programs.

(1) The Department is designated in Chapter 91-115, Laws of Florida, as the State Agency to administer all programs made available to Florida under the Federal Older Americans Act. The Department shall administer these programs in conformity with Title 45, Chapter 13, Code of Federal Regulations and policy guidance issuances from the Administration on Aging, Office of Human Development Services, of the U.S. Department of Health and Human Services.

(2) Federal regulations governing grants for State and Community Programs on Aging as published in the Federal Register, are applicable to all recipients of grants and contracts funded by the Older Americans Act, including the Department, Area Agencies and service providers. These Florida administrative rules are intended to complement and clarify requirements, procedures and Departmental policies applicable to the Older Americans Act Program.

Specific Authority 20.41(2), 410.016(2)(k), 430.08 FS., ch. 91-115, s. 10, Laws of Fla. Law Implemented 20.41, 410.011, 410.016, 430.03(6) FS., ch. 91-115, s. 10, Laws of Fla. History—New 12-23-81, Formerly 10A-11.02, 10A-11.002, Amended 3-28-95.

58A-1.003 Department Assistance to the Advisory Council.

(1) The Department provides staff support to assist the Department of Elder Affairs Advisory Council established by Section 430.05, F.S. Members of that Council, entitled by law to reimbursement for travel and per diem expenses, shall submit their expense vouchers and related documentation according to Section 112.061, F.S.

(2) Staff support by the Department will be furnished through the Office of the Secretary. Members of the Department are prohibited from imposing upon the Council any control, direction, or supervision.

Specific Authority 20.41(2), 410.016(2)(k), 430.08 FS., ch. 91-115, s. 10, Laws of Fla. Law Implemented 410.016(2)(d), (e), (i), 20.19(3), 430.05 FS., ch. 91-115, s. 10, Laws of Fla. History—New 12-23-81, Formerly 10A-11.03, 10A-11.003, Amended 3-28-95.

58A-1.004 Responsibilities of the Department of Elder Affairs as the State Agency on Aging.

(1) The Department of Elder Affairs is the State Agency on Aging. The Department has authority and responsibility to plan, develop, and administer policy on programs for older persons and to provide a visible focal point for advocacy, coordination, priority setting, monitoring and evaluation of programs for older persons within the State. To fulfill its responsibilities, the Department shall:

- (a) Develop a State Plan as required in Section 305 of the Older Americans Act,
- (b) Administer the State plan within the state,
- (c) Review and comment on all State Plans, budgets and policies which affect older persons,
- (d) Conduct public hearings on the needs of older persons, to receive information and maximize visibility of important issues,
- (e) Provide adequate and effective opportunities for older persons who are recipients of supportive or nutrition services or who use multipurpose senior centers to express their views on policy development and program implementation under the State Plan on Aging,
- (f) With the assistance of the Area Agencies on Aging, evaluate the need for social and nutrition services for older persons in the State, and determine the extent to which other public and private programs meet those needs,
- (g) In conjunction with Area Agencies on Aging and service providers, give preference to older persons with greatest economic or social need, with particular emphasis on low income minorities, in the delivery of services,
- (h) In cooperation with Area Agencies, render technical assistance to contractors and volunteers,
- (i) Advise the Governor, and key designated legislators, regarding the need for and location of programs related to aging, as stipulated in Section 430.04, F.S.,
- (j) In consultation with the Area Agencies on Aging, develop and publish for review and comment a formula for funds distribution which addresses those most in need of services and submit such formula to the Administration on Aging for approval,
- (k) Require outreach efforts,
- (l) Set specific objectives for each planning and service area for providing services funded under this title to low-income minority older individuals,
- (m) Undertake specific program development, advocacy, and outreach efforts focused on the needs of low-income minority older individuals,
- (n) Provide a description of the efforts described above in paragraphs (d), (e), and (f) that will be undertaken by the State agency.

(2) Divide the state into planning and service areas.

(3) The Department is responsible for the designation of the Area Agency on Aging for each PSA in accordance with Title III, Section 305(E) of the Older Americans Act. The Department shall establish and follow procedures to provide due process to affected parties, if the State agency initiates an action or proceeding to revoke the designation of an area agency on aging, designate an additional planning and service area, divide the State into different planning and service areas; or otherwise affect the boundaries of the planning and service areas in the state.

(4) The Department will develop, promulgate and revise a uniform format for the Area Agency on Aging's Multi-Year Area Plan. The Plan will cover four years, with required annual updates. In conjunction with the Area Plan format:

(a) The Department will develop and revise the format for the Area Plan, after opportunity for comment has been provided to Area Agency on Aging staff.

(b) The Department will develop and revise the basic format and minimum requirements for the service provider applications, after opportunity for comment has been provided to Area Agency on Aging staff and selected service provider agencies.

(5) Staff of the Department will monitor the administration of each Area Plan. Not less than annually, Department staff will conduct a formal on-site evaluation of the performances of each Area Agency on Aging.

(6) The Department will coordinate the development of programs and services of Titles III and VII of the Older Americans Act and establish policy and minimum standards for them as defined in the Department of Elder Affairs Programs and Services Manual, dated July 1994 and revised November 1994, available in the Office of the Secretary and at each Area Agency on Aging, and herein incorporated by reference.

(7) The Department will ensure that available U.S. Department of Agriculture food, cash or a combination of food and cash is made available to nutrition service providers funded under the area plan.

(8) The Department will coordinate the development of legal services for older individuals of the state.

(9) For the purpose of acquiring programmatic and fiscal information for Federal and State data and analysis the Department shall establish reporting requirements for Area Agencies on Aging and service providers in accordance with the Department of Elder Affairs Programs and Services Manual, Chapter I-4, Program Reporting Responsibilities, dated July 1994 and revised November 1994, available in the Office of the Secretary and at each Area Agency on Aging, and herein incorporated by reference.

(10) Agencies, organizations and individuals affected by actions of the Department may seek review in accordance with the Administrative Procedures Act, Chapter 120, F.S.

Specific Authority 20.41(2), 410.016(2)(k), 430.08 FS., ch. 91-115, s. 10, Laws of Fla. Law Implemented 20.41, 410.011, 410.016, 430.06 FS., ch. 91-115, s. 10, Laws of Fla. History—New 12-23-81, Formerly 10A-11.04, 10A-11.004, Amended 3-28-95.

58A-1.005 Designation of Area Agencies on Aging.

(1) An Area Agency on Aging will be designated in each planning and service area. Of the eligible applying entities, as defined by Section 305 of the Older Americans Act, the Department shall select that one which demonstrates to the Department that by virtue of location, office, staff, experience and community resources, is best able to discharge the duties of an Area Agency on Aging established by this rule.

(2) Actual designation occurs upon acceptance of the Area Agency's Area Plan and formal execution of the associated contract.

(3) The designated Area Agency on Aging is responsible for administration of Older Americans Act programs in its planning and service area.

(4) The State agency on aging shall withdraw an area agency's designation in accordance with Section 305(b)(5)(c) of the Older Americans Act as amended, whenever, after reasonable notice and opportunity for a hearing, it is determined that:

(a) An area agency does not meet the requirements of 45 CFR 1321 and Section 305 of the Older Americans Act as amended;

or

(b) An area plan including amendments is not approved by the Department after reasonable opportunity to comply; or

(c) There is substantial failure in provisions or administration of an approved plan to comply with provisions of the Older Americans Act of 1965, as amended, the applicable federal regulations, state statute, or administrative rule.

Specific Authority 20.41(2), 410.016(2)(k), 430.08 FS., ch. 91-115, s. 10, Laws of Fla. Law Implemented 20.41, 410.016(2)(f), 430.03(6) FS., ch. 91-115, s. 10, Laws of Fla. History—New 12-23-81, Formerly 10A-11.05, 10A-11.005, Amended 3-28-95.

58A-1.006 The Area Agency on Aging's Area Plan.

(1) Prior to preparation and submission of an area plan, an eligible agency or organization desiring to apply for redesignation or initial designation as an Area Agency on Aging shall obtain an Area Plan Format, dated March 1994, available in the Office of the Secretary, and herein incorporated by reference.

(2) Preparation and submission of a formal Area Plan will be in accordance with the prescribed Area Plan Format and the Department of Elder Affairs Programs and Services Manual, dated July 1994 and revised November 1994, available in the Office of the Secretary and at each Area Agency on Aging, and herein incorporated by reference.

(a) Technical assistance on the Area Plan submission may be sought at any time from the Department.

(b) The submission must accurately describe required activities, essential information and include attachments and exhibits required by the Department's format. The format for the Area Plan will be contained in the Area Plan on Aging Program Module and Contract Module, dated April 1994, available in the Office of the Secretary, and herein incorporated by reference.

(c) Also required as integral to the Area Plan, is an annual update of the Program and Contract module which details annual fiscal information and the implementation schedule of programmatic objectives. The format and submission dates of the Annual Update may be revised by the Department for flexibility in annual planning.

(d) Area Agencies in their Area Plans shall incorporate procedures for fair hearings. Hearings may be requested by affected service providers in the following situations:

1. If an Area Agency proposes to deny a service provider's application to provide services under the area plan, or to terminate or not renew a contract except as provided in Federal regulations;

2. If an Area Agency proposes a reduction in the amount of funds made available to service providers.

(e) In the event a hearing is held by an Area Agency, as specified in paragraph (d) above, a copy of the findings and final report detailing the results of the hearing is to be forwarded to the Department Secretary in writing by the person who conducted the hearing within ten working days of the conclusion of the hearing. The affected party may request a review by the Department Secretary. The Department will review to assure that a fair hearing was held. Further, if the affected party does not concur with the decision of the Secretary, the appeal may be considered by and brought before the Administration on Aging for a ruling.

(f) Additional information concerning Area Plan preparation and submission will be made available by the Department upon the request of any person.

(g) Associated with the Area Plan submission but not developed by the Area Agency on Aging is a contract document prepared by the Department and formally executed between the Department and the Area Agency on Aging upon acceptance of the Area Plan. The Area Plan is incorporated in the contract by reference.

(3) The Area Plan and its associated contract is accepted by the Department for implementation after execution by the Secretary or a designee.

(4) Changes to the Area Plan are to be made based on the following:

(a) The plan shall be amended at any time under the circumstances prescribed in Federal regulations.

(b) Amendments to the area plan will be effected by submission of the Area Agency of new or revised information using the Department's format and having said amendment approved by DOEA.

(c) Amendments to an approved Area Plan must be approved in writing by the Department, prior to implementation.

(d) Minor revisions and non-substantive changes to the plan as determined by the Department may be made at any time by the Area Agency in order to keep the plan current. Examples of a minor revision are changes in telephone numbers and addresses, personnel, and administrative details not affecting the quantity or quality of services to persons assisted by the programs administered. The Area Agency shall notify the Department of minor revisions at least quarterly.

(e) Whenever a change is contemplated by the Area Agency in any cost category or individual salary as budgeted in the Area Plan for Area Agency Administration:

1. Prior written approval from the Department is required if the contemplated change would result in a change in the original approved amount greater than ten percent.

2. Notification of such change shall be included in the next monthly financial report to the Department, if the change would not result in a change in the original amount greater than ten percent, in accordance with the Financial Management of Older Americans Act Programs Manuals, HRSM 55-1, dated 1990, and HRSM 75-2, dated 1993, available in the Office of the Secretary, and herein incorporated by reference.

3. Revised Area Plan pages shall be forwarded to the department in accordance with time frames established by the department.

(5) Subject to the availability of Federal and State funds and budget authority, the Department will contract with the Area Agency on Aging based on the submitted Area Plan for the Federal and State amounts indicated in the approved State Plan on Aging. Instructions for submitting payment requests and expenditure reports are contained in each contract for services executed between the Area Agency on Aging and the Department. Contract payment instructions will also be found in the Financial Management of Older Americans Programs Manuals HRSM 55-1, dated 1990, and HRSM 75-2, dated 1993, available in the Office of the Secretary, and herein incorporated by reference.

(6) In the event an Area Agency on Aging, after written notice of deficiency, fails to comply in a timely manner with the terms of the contract, the Department shall withhold distribution of a part of the total of contract funds designated for the Area Agency on Aging in proportion to the amount of services not furnished by the Area Agency on Aging as a result of the Area Agency on Aging delay. The Department shall promptly release any funds withheld, after corrective action has been taken or upon acceptance of a corrective action plan submitted by the Area Agency on Aging. If the Area Agency on Aging desires to appeal the decision to withhold funds, it may seek review in accordance with the Administrative Procedures Act, Chapter 120, F.S.

(7) Withdrawal of an Area Agency on Aging designation will be done in conformity with Federal Regulations governing the Older Americans Act program and in accordance with the Administrative Procedures Act, Chapter 120, F.S., subsection 58A-1.005(4), F.A.C. above, and the Department's Programs and Services Manual, Chapter IV-1, General Policies, Older American Act, dated July 1, 1994, available at Department headquarters and at each Area Agency on Aging, and incorporated herein by reference.

Specific Authority 20.41(2), 410.016(2)(k), 430.08 FS., ch. 91-115, s. 10, Laws of Fla. Law Implemented 20.41, 410.016(2)(h), (m), 430.03(6) FS., ch. 91-115, s. 10, Laws of Fla. History—New 12-23-81, Formerly 10A-11.06, 10A-11.006, Amended 3-28-95.

58A-1.007 Area Agency on Aging Functions and Responsibilities.

(1) Within the planning and service area an Area Agency on Aging shall:

(a) Serve as an effective and visible advocate and focal point for older persons of the planning and service area, and

(b) Develop and administer the area plan for a comprehensive and coordinated system of services for older persons.

(2) Each Area Agency on Aging shall agree to the following responsibilities:

(a) Establish and maintain a Board of Directors and an Advisory Council. The responsibilities, membership, frequency of meeting, by-laws and minutes of the Advisory Council shall comply with Section 430.05, F.S., and the Older Americans Act of 1965, as amended.

(b) Establish and maintain an adequate staff to administer the Area Plan.

(c) Plan social, health, nutrition and in-home services to meet the current and projected needs of older persons of the planning and service area, within the limits of available funds.

(d) Contract with service providers to assist socially or economically needy older persons, using priorities for services with special emphasis on low income minority, as established locally by needs assessment information.

(e) Area Agencies on Aging shall have procedures for handling complaints from persons who complain that service has been denied, terminated or reduced improperly under any programs funded by the Older Americans Act. The procedures shall include at a minimum an opportunity to submit facts and information orally or in writing to support the complaint and a written decision from the Area Agency on Aging containing the reasons for its decision. Area Agencies on Aging shall require service providers funded under the area plan to have procedures for handling such complaints. The Area Agency on Aging shall have the final decision authority regarding client complaints unless the client is alleging discrimination.

(f) Provide programmatic technical assistance to service providers and monitor and assess services provided under the area plan. Monitoring by the Area Agency on Aging shall determine the provider's compliance with state and federal law and rules.

(g) Provide financial management services, technical assistance and financial monitoring of the operations of the service providers and maintain accountability for all funds awarded by contract by the Department.

(h) Provide training and staff development necessary for the implementation of the area plan.

- (i) Accurately prepare and, in a timely manner, submit programmatic and fiscal reports required by Departmental policies.
- (j) Coordinate with other programs for older persons to assure a comprehensive service delivery system.
- (k) Membership of the Area Agency on Aging governing board shall be composed of persons residing within the planning and service area. Each governing board shall adopt in its by-laws, specific policy concerning conflict of interest regarding board members. No conflict policy shall be less stringent than the Code of Conduct provided in Part III, Chapter 112, F.S., the Florida Code of Ethics.

(3) The Area Agency on Aging is authorized to plan and administer under contract with the Department the following programs as established by Federal requirements, Florida State law, and policies of the Department of Elder Affairs, Programs and Services Manual:

- (a) Older Americans Act of 1965, as amended.
 - Title III B – Supportive Services Senior Centers
 - Title III C – Nutrition Program
 - Title III D – In-home Services for Frail Older Individuals
 - Title III F – Disease Prevention and Health Promotion
 - Title VII – Abuse, Neglect, Exploitation and Long Term Care Ombudsman Program, however, the State shall directly administer programs from Title VII, Older Americans Act, Programs for Prevention of Elder Abuse, Neglect, and Exploitation, and the Outreach, Counseling, and Assistance Program. Reference Older Americans Act Sections 721 and 741, F.S.
- (b) Community Care for the Elderly Program.
- (c) Alzheimer’s Disease Initiative.
- (d) Emergency Home Energy Assistance for the Elderly Program.
- (e) Local Services Programs.
- (f) Medicaid Waiver Programs.
- (g) United States Department of Agriculture programs.
- (h) Additional federal grant programs as awarded by the federal government.

Specific Authority 20.41(2), 410.016(2)(k), 430.08 FS., ch. 91-115, s. 10, Laws of Fla. Law Implemented 20.41, 409.508(4), 410.016(2)(d), (f), (h), (i), (m), 410.401, 410.402, 410.403, 430.03(6) FS., ch. 91-115, s. 10, Laws of Fla. History–New 12-23-81, Formerly 10A-11.07, 10A-11.007, Amended 3-28-95.

58A-1.008 Service Providers Under an Area Plan.

(1) Any public or private non-profit agency or organization, incorporated under the laws of Florida, is eligible to receive a subgrant or contract for services funded under the Older Americans Act. A regional or local agency of the State, however, is not eligible to perform as a service provider. An Area Agency on Aging may not provide direct services unless the Department determines that this is necessary in order to assure an adequate supply of that service. Any proposed contract between an Area Agency on Aging and a profit making organization to provide services under an Area Plan must receive approval prior to contract execution, from the Department.

(2) Any eligible agency or organization desiring to apply for a contract under the Area Plan may request an application from the local Area Agency on Aging after a request for proposal(s) has been issued. The Area Agency on Aging shall respond within ten working days and enclose an application. The application will contain complete instructions, forms, and specific documentation requirements to be completed by an applicant. The Area Agency shall utilize competitive bidding procedures in procurement contracts in accordance with State and Federal regulations defined by the Financial Management of Older Americans Act Programs Manuals, HRSM 55-1, dated 1990, and HRSM 75-2, dated 1993, available in the Office of the Secretary and herein incorporated by reference.

(a) Applicants may apply for funding based on procedures established at the local Area Agency on Aging. Applicants proposing to provide social, health, in-home or nutrition services must provide specified information in the Service Provider Application, DOEA Form #218, dated September 1994, available in the Office of the Secretary, and herein incorporated by reference.

(b) An applicant seeking Older Americans Act funding for the purpose of acquisition, alteration, or renovation of existing facilities, including mobile units, and construction of facilities to serve as multipurpose senior centers, shall make requests to the Area Agency on Aging. The Area Agency on Aging will render technical assistance concerning procedures and required documentation.

(3) Applicants may seek technical assistance regarding the application process from the Area Agency on Aging at any time.

(a) To be considered responsive, a formal application for funding must be:

1. Signed by the senior officer of the applicant agency’s governing body or designee.
2. Submitted on the Service Provider Application, DOEA Form #218, dated September 1994, available in the Office of the Secretary, and herein incorporated by reference and in accordance with the application instructions.
3. Provide an acceptable commitment for required non-federal financial participation (matching requirement).
4. Contain assurances of compliance with applicable Federal Regulations.

(b) A non-responsive application shall be rejected by the Area Agency on Aging; or, at the discretion of the Area Agency on Aging an applicant may be permitted to withdraw the application and resubmit it after correction of deficiencies.

(c) The Area Agency on Aging will acknowledge receipt of an application within ten working days.

(4) The following are minimum standards to be used by the Area Agency on Aging in evaluating applications to provide services under an Area Plan. Each Area Agency on Aging may incorporate in their Area Plan additional criteria for judging applications, based upon local needs and special conditions.

(a) The applicant shall:

1. Propose social, in-home, health or nutritional services in conformity with the Area Plan.

2. Include realistic program objectives which are in compliance with Department service standards as specified in contract terms.

3. Incorporate reasonable, necessary and allowable budget information in compliance with Department grants accounting standards as specified in contract terms.

4. Propose a project staff qualified by experience, education or training, including sufficient numbers of staff to assure proper and efficient programmatic and fiscal accountability.

5. Contain assurances that the project will be operated in accordance with Department standards and requirements as specified in contract terms.

(b) In the event of the receipt of applications from more than one local service provider proposing to provide essentially the same services, the Area Agency on Aging shall consider:

1. The extent of community support for the applicant,

2. The recommendations of the Area Agency on Aging's Board of Directors and Advisory Council, and

3. The prior experience of the applicant in providing social or nutrition services for older persons.

(c) In the event an applicant is dissatisfied with the action taken by the Area Agency on Aging, the applicant may request a hearing under procedures described in the Area Agency's Area Plan for compliants as described in paragraph 58A-1.007(2)(e), F.A.C., above.

(d) If the application is accepted for funding, the service provider will be further instructed by the Area Agency on Aging regarding establishment of project operation and start of service.

(5) Contracts between the Department, and the Area Agency on Aging, lead agency or core service providers shall follow departmental contracting and financial management procedures in accordance with the Financial Management of Older Americans Act Programs manuals, HRSM 55-1, dated 1990, and HRSM 75-2, dated 1993, available in the Office of the Department Secretary, and herein incorporated by reference.

(6) Service providers funded under the Area Plan shall adopt procedures for handling complaints from persons who assert that service has been denied, terminated or reduced improperly under any programs funded by the Older Americans Act. The complaint procedure must permit at least an opportunity to present orally or in writing the reasons why the service should not be changed and that the provider will furnish to the complainant a written explanation of the nature and reasons for the provider's action. Complaints which remain unresolved by a service provider shall be referred to the Area Agency on Aging by written report from the service provider no later than 30 days following the complainant's notice, with detailed information regarding efforts to resolve the complaint.

Specific Authority 20.41(2), 410.016(2)(k), 430.08 FS., ch. 91-115, s. 10, Laws of Fla. Law Implemented 20.41, 410.016(2)(f), (h), (m), 430.03(6) FS., ch. 91-115, s. 10, Laws of Fla. History—New 12-23-81, Formerly 10A-11.08, 10A-11.008, Amended 3-28-95.

58A-1.009 Confidentiality and Disclosure of Information.

(1) Information described in subsection (2) is confidential and exempt from the public records law, Section 119.07(1), F.S. It shall not be disclosed to the public in such a way as to identify the elderly person, unless written consent is provided by the elderly person or his or her guardian.

(2) Information about functionally impaired elderly or disabled adults, Alzheimer's disease patients, or information on individuals who receive benefits from Departmental programs based on their relationship to eligible persons, where information is received by or through Department files, reports, inspections or in any other way, shall not be disclosed without express written permission from the impaired or disabled adult or the eligible party affected.

(3) This rule prohibits disclosure of information regarding the client supplied to officers and employees of the Department, to Area Agencies on Aging and their officers and employees, to persons who volunteer their services, and to persons or entities who provide service under contract with the Department, unless otherwise directed as per subsections 58A-1.009(1) and (2), F.A.C.

Specific Authority 20.41(2), 410.016(2)(k), 430.08 FS., ch. 91-115, s. 10, Laws of Fla. Law Implemented 20.41, 410.016(2)(e), 410.0295, 410.037, 410.302, 410.403, 410.605, 430.05 FS., ch. 91-115, s. 10, Laws of Fla. History—New 12-23-81, Formerly 10A-11.09, 10A-11.009, Amended 3-28-95.

58A-1.010 Program Forms.

The following forms shall be used for programs regulated by this chapter, are hereby incorporated by reference, and are available in the Office of the Secretary and at each Area Agency on Aging:

(1) For purposes of assessment:

(a) DOEA Form 701A, Prioritization Form, dated July, 2000.

(b) DOEA Form 701B, Assessment Instrument, dated July, 2000.

(c) DOEA Form 701C, Congregate Meals Form, dated July, 2000.

(2) For purposes of completing forms listed in subsection (1): DOEA Form 701D, Assessment Instructions (701A, 701B, 701C), dated July, 2000.

(3) For purposes of documenting planned services of care: DOEA Forms 203A, Care Plan, and 203B, instructions dated July, 2001.

Specific Authority 430.08, 430.101 FS. Law Implemented 20.41, 430.101 FS. History—New 8-20-00, Amended 8-6-01.

CHAPTER 58A-2 HOSPICE

- 58A-2.001 Purpose. (Repealed)
- 58A-2.002 Definitions.
- 58A-2.003 License Required.
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- 58A-2.019 Nutritional Services.
- 58A-2.0232 Advance Directives.
- 58A-2.0236 Residential Units.
- 58A-2.024 Physical Plant Requirements (Inpatient Unit). (Repealed)
- 58A-2.025 Physical Plant Requirements (Inpatient Facility and Unit).
- 58A-2.026 Comprehensive Emergency Management Plan.
- 58A-2.027 Hospice Employee Training Requirements.
- 58A-2.028 Hospice Training Provider and Curriculum Approval.

58A-2.002 Definitions.

In addition to definitions contained in Chapter 400, Part VI, F.S., the following terms shall apply:

- (1) Autonomous means a separate and distinct operational entity which functions under its own administration and bylaws, either within or independently of a parent organization.
- (2) Branch office means an office or other physical location which is remote from the principal office of the provider, but is not separately licensed, and which shares administration with the principal office which serves as a contact point for patients.
- (3) Employ means to engage the services of, on either a salary or volunteer basis.
- (4) Home means the patient's current place of residence, including a private residence, assisted living facility, nursing home, hospice residential unit, or other place of permanent or temporary residence.
- (5) Home Health Aide means an individual who provides personal health care services for a patient in the patient's home or place of residence under the supervision of a registered nurse.
- (6) Licensed Practical Nurse means an individual licensed pursuant to Chapter 464, F.S., to practice practical nursing.
- (7) Patient Care Staff means those persons involved in direct care of the patient, including registered nurses, practical nurses and home health aides, social workers and other mental health professionals, and clergy or pastoral counselors.
- (8) Patient's Family means that person or those persons designated by the patient as having primary responsibility for care, or persons who are closely linked with the patient and are involved in the health and supportive care of the patient.
- (9) Patient and Family Unit means the patient and the patient's family.
- (10) Registered Nurse means an individual who is licensed pursuant to Chapter 464, F.S., to practice professional nursing.

Specific Authority 400.605 FS. Law Implemented Ch. 400, Part VI FS. History--New 5-6-82, Formerly 10A-12.02, 10A-12.002, Amended 4-27-94, Formerly 59A-2.002, Amended 6-5-97.

58A-2.003 License Required.

- (1) The face of the license shall contain the following information: the name and address of the provider, including the principal office and all branch offices, all hospice residences and inpatient facilities, all counties served by the hospice, the name of the owner, and the effective and expiration dates of the license. The hospice shall notify the AHCA and the Department in writing at least sixty (60) days before making a change in name or address of the provider.

(2) If change of ownership is contemplated, the new owner shall submit, or cause to be submitted, an application for license and receive a license prior to commencement of operation of the hospice. A signed agreement to correct any existing licensure deficiencies shall accompany the license application, together with documentation to evidence that the ownership change has taken place, and a statement that records pertaining to the administrative operation of the provider will be retained and available for official inspection by the AHCA.

(3) If a merger of two or more hospice providers is contemplated, the legal and incorporated entity that will be responsible for the operational function of the hospice after the merger shall notify the AHCA prior to the merger. Notification will include the anticipated date for the merger and reason for the merger. The AHCA shall require the legal entity to submit an application for license, including a revised plan for the delivery of hospice care to terminally ill patients and their families who will be affected by the merger.

Specific Authority 400.605 FS. Law Implemented Ch. 400, Part VI FS. History--New 5-6-82, Formerly 10A-12.03, 10A-12.003, Amended 4-27-94, Formerly 59A-2.003, Amended 6-5-97.

58A-2.004 Licensure Procedure.

(1) Licenses issued by the AHCA to operate a hospice shall be based upon the results of a survey conducted by the AHCA to determine compliance with the requirements of Chapter 400, Part VI, F.S., and with these rules. A license shall be issued to any not-for-profit public or private agency who meets all federal, state and local requirements.

(2) Application for license shall be made to the AHCA on forms prescribed by the AHCA. The application shall be accompanied by a license fee of six hundred dollars (\$600.00) as provided under Section 400.606, F.S., in check or money order, payable to the Agency for Health Care Administration.

(3) In addition to the information required in Section 400.606(1), F.S., the following information is required for the licensure application:

(a) The name of the hospice's administrator and the administrator's license number if the administrator is a licensed professional; the name and license number of the hospice's medical director; the number and types of licensed professionals, including clergy, employed or to be employed by the hospice; the number of home health aides employed or to be employed by the hospice; the number and types of other personnel employed or to be employed by the hospice and assigned to a hospice care team or teams.

(b) For initial licensure only, the Certificate of Need and certificates of occupancy signed by local authorized zoning, building and electrical officials shall be attached to the application. For initial licensure, where there are no municipal, county or electrical building codes, the applicant shall provide a written statement of compliance with these regulations from a registered architect or professional engineer who shall substitute for the authorities specified above. A separate survey for fire safety and physical plant requirements of residential and freestanding inpatient facilities operated by the hospice shall be made by the AHCA prior to the opening of the facilities and on a periodic basis.

(c) As a condition of licensure, each successful applicant shall submit the names and professions for all hospice care team staff, and license numbers held by hospice care team staff who are licensed, no later than three (3) months after the license is issued.

Specific Authority 400.605 FS. Law Implemented 400.605(1)(a) FS. History--New 5-6-82, Formerly 10A-12.04, Amended 10-6-91, Formerly 10A-12.004, Amended 4-27-94, Formerly 59A-2.004, Amended 6-5-97, 8-10-03.

58A-2.005 Administration of the Hospice.

(1) Governing Body – There shall be a governing body established by written bylaws of the hospice with autonomous authority for the conduct of the hospice program and which shall satisfy the following requirements:

(a) Members of the governing body shall reside or work in the hospice's service area as defined in paragraph 59C-1.0355(2)(k), F.A.C.

(b) No person shall be denied membership on the governing body by reason of race, creed, color, age or sex.

(c) Duties of the governing body shall include:

1. Adoption in writing, with updates as necessary, of the following documents which shall be in compliance with provisions of Chapter 400, Part VI, F.S., and these rules:

a. Criteria defining eligibility for hospice services;

b. A program for building and coordinating relationships with other community organizations in order to provide hospice patients assistance with meals, utility payments, legal services, home repair and equipment, and other needs as identified on an individual basis;

c. Standards of hospice care which will ensure compliance with these rules and Chapter 400, Part VI, F.S., and which will promote and maintain a quality of life for each patient and family that reflects the patient's needs and values;

d. A comprehensive emergency management plan for all administrative, residential, free-standing inpatient facilities, and hospice services designed to protect the safety of patients and their families and hospice staff;

e. An annual operating and strategic plan and budget.

2. Promulgation of rules and bylaws which include at least the following:

a. The purpose of the hospice;

- b. Annual review of the rules and bylaws which shall be dated and signed by the chairman of the governing body;
- c. The powers and duties of the officers and committees of the governing body;
- d. The qualifications, method of selection and terms of office of members and chairpersons of the governing body and committees;
- e. A mechanism for appointment by the administrator of the medical director and other professional and ancillary personnel.
- (2) Administrative Officer – The hospice shall employ an administrator whose duties shall be enumerated in a job description, including job qualifications, which shall be approved by the governing body and kept in an administrative file.
 - (a) The administrator shall be responsible for day-to-day operations and the quality of services delivered by the hospice.
 - (b) The administrator shall be responsible for maintaining an office facility for the hospice.
 - (3) Administrative Policies and Practices.
 - (a) The administrator shall be responsible for developing, documenting and implementing administrative policies and practices which are consistent with these rules and the by-laws, plans and decisions adopted by the governing body, and which ensure the most efficient operation of the hospice program and safe and adequate care of the patient and family units. These policies and practices shall include:
 - 1. Policies governing admission to the hospice program and discontinuation of care.
 - 2. Personnel policies applicable to all full-time and part-time paid employees and volunteers, including job descriptions, job qualifications and duties, which shall be kept in an administrative file.
 - 3. A plan for orientation and training of all staff, including volunteers, which shall ensure that all staff receive this training prior to their delivering services of any kind to patients and their families. This plan shall describe the method of assessing training needs and designing training to meet those needs, and shall include a curriculum outline with specific objectives.
 - 4. Financial policies and practices that include:
 - a. An annual budget for approval by the governing body;
 - b. An annual audited financial statement for approval by the governing body;
 - c. An ongoing bookkeeping and financial management system that is developed and implemented according to sound business practice;
 - d. An ongoing payroll system that is developed and implemented according to sound business practice;
 - e. Procedures for accepting and accounting for gifts and donations; and
 - f. A fee schedule for hospice care.
 - 5. Policies for administering drugs and biologicals in the home which shall include:
 - a. All orders for medications shall be dated and signed by a physician licensed in the State of Florida pursuant to Chapter 458 or 459, F.S.;
 - b. All orders for medications shall contain the name of the drug, dosage, frequency and route;
 - c. All verbal orders for medication or treatments or changes in medication or treatment orders shall be taken by a licensed health professional and reduced to writing and signed by the physician within fourteen (14) days;
 - d. The use of experimental drugs or any FDA or Chapter 500, F.S., approved drug in a nonapproved manner shall not be given without the consent of the patient or the patient's surrogate or proxy. The program administering such drugs shall be fully informed and prepared to invoke remedial action should an adverse reaction occur.
 - 6. Policies and procedures for the administration and provision of pharmaceutical services in inpatient and residential settings that are consistent with the drug therapy needs of the patient as determined by the medical director or the patient's attending physician(s). The pharmaceutical services shall be directed by a pharmacist registered in the State of Florida.
 - 7. Policies and procedures approved by the medical director and governing body pertaining to the drug control system in the hospice which shall include specific policies and procedures for disposal of Class II drugs upon the death of a patient.
 - 8. Procedures which ensure the hospice can provide patients with medications on a twenty-four (24) hours a day, seven (7) days a week basis.
 - 9. Maintenance, confidentiality, and retention of clinical records for a minimum five-year period following the patient's death.
 - 10. Procedures for inpatient visitation by family and friends.
 - 11. Procedures for maintaining a record of requests for services. The record shall indicate the action taken regarding each request for hospice services and whether or not the patient has the ability to pay for the services. In no case shall a hospice refuse or discontinue hospice services based on the inability of the patient to pay for such services.
 - 12. Notice to the public that hospice provides services regardless of ability to pay.
 - 13. Notice to the public of all services provided by the hospice program, the geographic area in which the services are available, and admission criteria.
 - 14. Policies for educating the community to enhance public awareness of hospice services.
 - 15. Completion, retention and submission of reports and records as required by the Department, the AHCA and other authorized agencies.
 - 16. Policies and procedures for implementing universal precautions as established by the Centers for Disease Control and Prevention.

(b) Equipment and personnel, under medical supervision, shall be provided for diagnostic procedures to meet the needs of the hospice inpatient, residential and home-care programs. This shall include the services of a clinical laboratory and radiological services, which shall meet all standards of the State of Florida. Unless provided on the premises of the hospice, there shall be written agreements or contracts for such services. The hospice program shall ensure that the sum of services under contract and services provided directly by the hospice shall assure twenty-four (24) hours a day, seven (7) days a week availability.

(c) Each hospice shall develop an infection control program which specifies procedures and responsibilities for inpatient, residential care and home-care programs. Procedures regulating the structure and function of this program shall be approved by the medical director and the governing body, and shall comply with federal and state laws regarding blood-borne pathogens, infection control and biohazardous waste.

Specific Authority 400.605 FS. Law Implemented 400.605(1)(c) FS. History—New 5-6-82, Formerly 10A-12.05, 10A-12.005, Amended 4-27-94, Formerly 59A-2.005, Amended 6-5-97, 8-6-02, 8-10-03.

58A-2.009 Coordinated Care Program.

(1) The administrator shall be responsible for ensuring the development, documentation and implementation of a staffing pattern for all components of a hospice program (inpatient, residential, and home-care), which shall be kept in an administrative file.

(a) A general staffing plan shall include the rationale for determining staffing requirements, which shall be based on the needs of the patients and their families and shall ensure appropriate care to meet those needs.

(b) The staffing patterns for contracted inpatient components shall meet or exceed the minimum staffing requirements under which the contracted facility is currently licensed.

(c) Minimum service provided for routine home care, consistent with the patient's status and the family's well-being, shall be a weekly telephone contact and a biweekly visit by a registered nurse.

(2) The administrator shall be responsible for ensuring the development, documentation and implementation of a current plan that delineates cooperative planning, decision-making and documentation by the disciplines represented in the members of the hospice care team and which provides the staff with methods of meeting collective and individual responsibilities as outlined and assigned in the plan of care for each patient and family unit. Such policies and procedures shall, at a minimum, include the following:

(a) Identification of the patient and the patient's family as the unit of care;

(b) Identification of the hospice care team as the unit that provides care to the patient and family unit and that is responsible for admission, assessment and the individual plan of care for the patient and the patient's family in accordance with the requirements of Section 400.6095, F.S.;

(c) Methods of controlling the symptoms of terminal illness together with methods of evaluating and studying such methods;

(d) Methods of teaching the patient and the patient's family those skills necessary to promote the patient and family relationship and enhance the independence of the patient and family unit.

(e) Methods to ensure that the patient and the patient's family shall, insofar as practical, define the needs to be addressed in the plan of care, provide significant information and assistance in developing and implementing an effective plan of care, and have access to the written plan of care upon request.

(3) The administrator shall be responsible for ensuring that the hospice care team:

(a) Provides a mechanism whereby the patient and the patient's family shall be able to communicate directly with a member of the hospice care team on a twenty-four (24) hours a day, seven (7) days a week basis.

(b) Documents all such communication including requests for hospice care and the disposition of such requests.

(c) Is staffed in such a manner as to be able to receive and respond to such requests and provide interdisciplinary hospice services on a twenty-four (24) hours a day, seven (7) days a week basis.

(d) Provides continuity of services without interruption through all modes of care delivery in the hospice program. Admission to a hospice program means accessibility to all its hospice core services as described in Section 400.609(1), F.S.

(e) Documents all services provided by the hospice care team in the interdisciplinary care record.

Specific Authority 400.605 FS. Law Implemented Ch. 400, Part VI FS. History—New 5-6-82, Formerly 10A-12.09, 10A-12.009, Amended 4-27-94, Formerly 59A-2.009, Amended 6-5-97.

58A-2.010 Quality Assurance and Utilization Review (QAUR) Committee and Plan.

Each hospice shall appoint a committee which shall develop, document and implement a comprehensive quality assurance and utilization review plan pursuant to Section 400.610(2), F.S. The QAUR plan shall include goals and objectives, provisions for identifying and resolving problems, methods for evaluating the quality and appropriateness of care, and the effectiveness of actions taken to resolve identified problems. The QAUR plan shall establish a process for revising policies, procedures and practices when reviews have identified problems. The QAUR committee shall review the QAUR plan and report findings and recommendations to the governing body annually. Dated and signed minutes of those meetings of the governing body at which QAUR findings and recommendations are presented shall be kept in an administrative file.

(1) The QAUR committee shall be composed of individuals who are trained, qualified, supervised and supported by review procedures and written criteria related to treatment outcomes. These review procedures and written criteria shall be established with involvement from physicians, and shall be evaluated and updated annually by the QAUR committee.

(2) An incident or accident report shall be required in every instance of error in treatment, adverse reaction to treatment or medication, or injury to the patient. All of these incident or accident reports shall be reviewed by the QAUR committee.

(3) The QAUR committee shall audit patient records, including interdisciplinary care records, on a regular and periodic basis. All records shall be stored in secured areas to protect patient confidentiality.

(a) Active patient records shall be kept at the main office, a branch office, a hospice residential facility or a hospice inpatient facility.

(b) After the patient's death and the end of the bereavement period, the master record shall be stored in a secure and accessible location.

(4) The QAUR committee shall assist the administrator in developing, documenting and implementing a formal training and orientation program for individuals conducting utilization review activities.

(5) Activities undertaken in the QAUR process shall demonstrate a systematic collection, review, and evaluation of information and shall result in proposed actions to correct any identified problems. The information used by the QAUR committee shall include:

(a) Care provided in alternate settings and by contracted entities;

(b) Services provided by professional and volunteer staff;

(c) Evaluations by the patient and the patient's family of care provided by the hospice;

(d) Incident reports;

(e) Complaints received from patients and their families;

(f) High-risk, high-volume and problem-prone activities;

(g) Appropriateness of team services and levels of care;

1. If the plan of care was directly related to the identified physical and psychosocial needs of the patient and the patient's family;

2. If the services, medications and treatments prescribed were in accordance with the current hospice plan of care;

3. If the hospice program of care was primarily a home-care program that utilized inpatient hospice care on a short-term or respite basis only.

(6) The QAUR committee shall periodically review the accessibility of hospice services and the quality of those services.

(7) The QAUR committee shall make recommendations to the administrator and the governing body for resolving identified problems and for improving patient and family care.

Specific Authority 400.605 FS. Law Implemented Ch. 400, Part VI FS. History--New 5-6-82, Formerly 10A-12.10, 10A-12.010, Amended 4-27-94, Formerly 59A-2.010, Amended 6-5-97.

58A-2.012 Program Reporting.

(1) The hospice shall complete an annual report for the period January 1 through December 31 and shall submit the report to the Department no later than February 28 of the following year. The annual report shall include the following information:

(a) Total number of patients served by the hospice during the reporting period by:

1. Age.

a. 0 – 18 years of age;

b. 19 – 64 years of age;

c. 65 years of age and older;

2. Diagnosis.

a. Cancer;

b. Illness due to Acquired Immune Deficiency Syndrome (AIDS);

c. Chronic Obstructive Pulmonary Disease (COPD);

d. End-Stage Renal Disease (ESRD);

e. Congestive heart failure;

f. Other;

(b) Percent reimbursement by:

1. Medicare.

2. Medicaid.

3. Third party insurance.

4. Sliding fee scale.

5. Self-pay.

6. Uncompensated.

a. Charitable;

b. Non-billable;

7. Other.

(c) Total number of patient-days in:

1. Private residence.
2. Assisted living facility.
3. Adult family care home.
4. Hospice residential unit.
5. Nursing home.
6. Inpatient facility.
 - a. Hospital or nursing home.
 - b. Free-standing.

(2) A copy of the annual report shall at all times be available to any member of the public.

Specific Authority 400.605 FS. Law Implemented Ch. 400, Part VI FS. History—New 5-6-82, Formerly 10A-12.12, 10A-12.012, Amended 4-27-94, Formerly 59A-2.012, Amended 6-5-97.

58A-2.014 Medical Direction.

(1) The hospice shall employ a medical director who shall be a hospice physician licensed in the State of Florida pursuant to Chapter 458 or 459, F.S., who has admission privileges at one or more hospitals commonly serving patients in that hospice's service area as defined in Rule 59C-1.0355, F.A.C. Duties shall be enumerated in a job description, including job qualifications, which shall be kept in an administrative file.

(2)(a) The medical director or his or her designee shall be a member of the hospice care team and shall be responsible for the direction and quality of the medical component of the care rendered to the patient by the hospice care team. The patient's attending physician(s) may remain the primary physician(s) to the patient, depending upon the preferences of the patient and the patient's family. The patient and the patient's family may elect to have the hospice medical director assume all or part of the primary medical care functions, or act as a consultant to the patient's attending physician(s). In either case, the hospice care team shall maintain liaison and a reporting relationship with the patient's attending physician(s).

(b) Duties of the medical director shall include:

1. Reviewing clinical material of the patient's attending physician(s) to document basic disease process, prescribed medicines, assessment of patient's health at time of entry and the drug regimen, or performing an admission history and physical for each patient.

2. Validating the attending physician(s)' prognosis and life expectancy for the patient.

3. Assisting in developing and medically validating the plan of care for each patient and family unit with the coordination of the patient's attending physician(s).

4. Attending and actively participating in patient and family care conferences.

5. Rendering or actively supervising medical care for hospice patients and maintaining a record of such care.

6. Maintaining a regular schedule of participation in all components of the hospice care program and maintaining twenty-four (24) hours a day, seven (7) days a week coverage of and ready availability to the hospice program through him or herself or his or her licensed hospice physician designee.

7. Acting as a consultant to attending, including personal, physicians and other members of the hospice care team; helping to develop and review policies and procedures for delivering care and services to the patient and family unit; serving on appropriate committees; and reporting regularly to the hospice administrator regarding medical care delivered to the hospice patients.

8. Maintaining liaison with the patient's attending physician(s), who is encouraged to provide primary care to his or her patient even though the patient also receives hospice care. The hospice physician will provide palliative care to his or her patient.

9. Establishing written protocols for symptom control, i.e., pain, nausea, vomiting, or other symptoms.

10. Assisting the administrator in developing, documenting and implementing a policy for discharge of patients from hospice care.

(3) In addition to the hospice medical director, the hospice may appoint additional hospice physician(s) who shall perform duties prescribed herein. Any appointed physician shall be subject to the same licensing qualifications as the hospice medical director.

(4) The medical director shall assist the administrator in developing, documenting and implementing policies and procedures for regulating the delivery of physicians' services, for orientation of new hospice physicians, and for continuing training and support of hospice physicians. These policies and procedures shall:

(a) Ensure that a hospice physician is on-call twenty-four (24) hours a day, seven (7) days a week;

(b) Provide for the review and evaluation of clinical practices within hospice inpatient, residential and home-care programs in coordination with the QAUR committee.

Specific Authority 400.605 FS. Law Implemented Ch. 400, Part VI FS. History—New 5-6-82, Formerly 10A-12.14, 10A-12.014, Amended 4-27-94, Formerly 59A-2.014, Amended 6-5-97.

58A-2.0141 Nursing Services.

(1) The hospice shall employ a registered nurse who shall monitor all services provided by hospice nurses and home health aides. The supervising registered nurse shall be qualified by supervisory or hospice experience and shall have completed a hospice training program sponsored by the employing hospice. Duties shall be enumerated in a job description, including job qualifications, which shall be kept in an administrative file.

(2) The supervising registered nurse shall assist the administrator in developing, documenting and implementing policies and procedures for the delivery of clinical nursing services throughout the hospice program, including home-care, residential and inpatient programs; the orientation and training of newly employed or contractual hospice nurses and home health aides; and ongoing training and education of the hospice nurses and home health aides.

(3) The hospice shall ensure, by employment or contractual arrangements, that there are sufficient nurses and home health aides to meet the health care needs of the patient population of the hospice.

Specific Authority 400.605 FS. Law Implemented Ch. 400, Part VI FS. History—New 6-5-97.

58A-2.015 Spiritual Counseling Services.

(1) The hospice shall employ a clergy-person or pastoral counselor to provide spiritual counseling. The clergy-person or pastoral counselor shall have a degree in ministry from a college, university or divinity school; or shall have completed a clinical pastoral education program with an emphasis in health care ministry; or shall have completed formal training and is recognized as qualified to perform pastoral services in his or her religion or belief system. The clergy-person or pastoral counselor shall also have completed a hospice training program sponsored by the employing hospice. Duties shall be enumerated in a job description, including job qualifications, which shall be kept in an administrative file.

(2) The clergy-person or pastoral counselor shall assist the administrator in developing, documenting and implementing policies and procedures regulating the delivery of such services.

(3) The hospice shall ensure, by employment or contractual arrangement, that there are sufficient clergy-persons or pastoral counselors to provide spiritual support to the patient population of the hospice and the patients' families.

(4) The hospice and its agents shall not impose the dictates of any value or belief system on its patients and their families.

Specific Authority 400.605 FS. Law Implemented Ch. 400, Part VI FS. History—New 5-6-82, Formerly 10A-12.15, 10A-12.015, Amended 4-27-94, Formerly 59A-2.015, Amended 6-5-97.

58A-2.016 Counseling and Social Services.

(1) The hospice shall employ a social worker who has a degree in social work or a degree in a related field with experience in social work, and who has completed a hospice training program sponsored by the employing hospice. Duties shall be enumerated in a job description, including job qualifications, which shall be kept in an administrative file.

(2) Therapeutic counseling services, if provided, must be provided by a social worker, marriage and family therapist, mental health counselor, or other mental health professional who is licensed by or authorized under the laws of the state of Florida to provide such services.

(3) The social worker shall assist the administrator in developing, documenting and implementing policies and procedures regulating the delivery of such services.

(4) The hospice shall ensure, by employment or contractual arrangement, that there are sufficient social workers and other mental health professionals to meet the social, emotional and mental health needs of the patients and families being served by the hospice.

Specific Authority 400.605 FS. Law Implemented Ch. 400, Part VI FS. History—New 5-6-82, Formerly 10A-12.16, 10A-12.016, Amended 4-27-94, Formerly 59A-2.016, Amended 6-5-97.

58A-2.017 Volunteer Services.

(1) The hospice shall employ a coordinator of volunteer services who shall assist the administrator in developing, documenting and implementing a volunteer services program which meets the operational needs of the program and provides services to the patient and family units in accordance with the individual plans of care. Duties shall be enumerated in a job description, including job qualifications, which shall be kept in an administrative file.

(2) The volunteer coordinator shall assist the administrator in developing, documenting and implementing policies and procedures regulating the delivery of such services, volunteer orientation, and ongoing training and support for volunteers.

(3) The hospice shall make effort to recruit volunteers to provide support for the needs and comfort of the patient population of the hospice and the patients' families.

Specific Authority 400.605 FS. Law Implemented Ch. 400, Part VI FS. History—New 5-6-82, Formerly 10A-12.17, 10A-12.017, Amended 4-27-94, Formerly 59A-2.017, Amended 6-5-97.

58A-2.018 Bereavement Services.

The hospice shall provide bereavement counseling and services to the families of hospice patients for a minimum of one (1) year following the patient's death. The formal and informal supportive services which comprise bereavement counseling shall be supervised or provided by professional staff as described in Rules 58A-2.015 and 58A-2.016, F.A.C.

(1) The administrator shall ensure the development, documentation and implementation of policies and procedures regulating the delivery of bereavement counseling and services.

(2) The bereavement program shall provide educational and spiritual materials and individual and group support services for the patient's family after the patient's death.

Specific Authority 400.605 FS. Law Implemented Ch. 400, Part VI FS. History—New 5-6-82, Formerly 10A-12.18, 10A-12.018, Amended 4-27-94, Formerly 59A-2.018, Amended 6-5-97.

58A-2.019 Nutritional Services.

The administrator shall ensure that dietary services and nutritional counseling services are available to all patient and family units in all components of hospice care on an as-needed basis.

(1) The administrator shall ensure the development, documentation and implementation of written policies and procedures for dietary services including nutritional counseling services.

(2) In hospice residential care and hospice inpatient care settings, the hospice shall provide consultation by a licensed dietitian on practical freedom-of-choice diets for hospice patients and shall ensure that patients' favorite foods are included in their diets whenever possible.

Specific Authority 400.605 FS. Law Implemented Ch. 400, Part VI FS. History—New 5-6-82, Formerly 10A-12.19, 10A-12.019, Amended 4-27-94, Formerly 59A-2.019, Amended 6-5-97.

58A-2.0232 Advance Directives.

(1) The administrator shall ensure the development, documentation and implementation of policies and procedures which delineate the hospice's compliance with the state law and rules relative to advance directives. The hospice shall not condition treatment or admission upon whether or not the patient has executed or waived an advance directive. In the event of conflict between the hospice's policies and procedures and the patient's advance directive, provision shall be made in accordance with Chapter 765, F.S.

(2) The hospice's policies and procedures shall include:

(a) At the time of admission to a hospice program, providing each patient, or the patient's surrogate or proxy, with a copy of "Health Care Advance Directives – The Patient's Right to Decide," as prepared by the Agency for Health Care Administration, 2727 Mahan Drive, Tallahassee, FL 32308, effective 1-11-93, which is hereby incorporated by reference, or with a copy of some other substantially similar document which is a written description of Chapter 765, F.S., regarding advance directives.

(b) At the time of admission to a hospice program, providing each patient, or the patient's surrogate or proxy, with written information concerning the hospice's policies regarding resuscitation and advance directives.

(c) Requiring documentation of the existence of an advance directive in the patient's medical record. A hospice which is provided with a patient's advance directive shall make the advance directive or a copy thereof a part of the patient's interdisciplinary care record and the patient's medical record.

Specific Authority 765.110, 400.605 FS. Law Implemented Ch. 765, Ch. 400, Part VI FS. History—New 1-11-93, Formerly 59A-2.025, Amended 4-27-94, Formerly 58A-2.0232, Amended 6-5-97.

58A-2.0236 Residential Units.

(1) Residential units which are established by a licensed hospice provider will not be required to be separately licensed. Residential units shall comply with local codes and ordinances governing zoning, fire, safety, and health standards.

(2) Residential units shall be maintained in a manner which provides for managing personal hygiene needs of the patients and implementation of infection control procedures.

(3) Equipment and furnishings in residential units will provide for the health care needs of the resident while providing a home-like or non-institutional type of atmosphere.

(4) The hospice provider shall insure that:

(a) Each patient residing in a residential unit has an identified individual who will serve as that patient's principal advocate and contact person.

(b) The residential unit is staffed at sufficient skill level and number to meet the needs of the patients and their families.

1. At all times the residential unit shall be staffed with a minimum of two (2) employees, one (1) of which shall be a licensed nurse.

2. Units for more than eight (8) patients shall be a staff-to-patient ratio of one to four (1:4) calculated on a twenty-four (24) hour period. At no time shall the unit have a staff-to-patient ratio of less than one to six (1:6).

3. All staff on duty shall assist with evacuation of patients in the event of an emergency.

(5) Services provided in the residential unit are consistent with the plan of care prepared for that patient and are consistent with services provided by the hospice program in other settings.

(6) Residential units shall be equipped to prepare meals that meet the dietary requirements of the patient.

(7) Residential units shall comply with the following codes and standards:

(a) All new facilities and additions and renovations to existing facilities shall be in compliance with:

1. The Florida Building Code, as described in Chapter 3 of Section 311.2 (R4) as adopted by the Florida Building Commission and incorporated by reference in subsection 9B-3.047(1), F.A.C., dated December 16, 2001, by the Department of Community Affairs and obtainable from the Southern Building Code Congress International, Inc., 900 Montclair Road, Birmingham, Alabama 35213-1206;

2. The National Fire Protection Association Life Safety Code 101, Chapter 32, Residential Board and Care Occupancy and incorporated by reference in Rule 4A-3.012, F.A.C., dated November 6, 2001, by the Division of State Fire Marshal at the Department of Finance and obtainable from the National Fire Protection Association, 1 Batterymarch Park, P. O. Box 9101, Quincy, Massachusetts 02269-9101; and

3. Chapter 11, Section 11-6.1(1) of the Florida Building Code, as adopted by the Florida Building Commission and incorporated by reference in subsection 9B-3.047(1), F.A.C., dated December 16, 2001, by the Department of Community Affairs and obtainable from the Southern Building Code Congress International, Inc., 900 Montclair Road, Birmingham, Alabama 35213-1206.

(b) All existing facilities shall comply with National Fire Protection Association Life Safety Code 101, Chapter 33, Residential Board and Care Occupancy and incorporated by reference in Rule 4A-3.012, F.A.C., dated November 6, 2001, by the Division of State Fire Marshal at the Department of Finance and obtainable from the National Fire Protection Association, 1 Batterymarch Park, P. O. Box 9101, Quincy, Massachusetts, 02269-9101.

Specific Authority 400.605 FS. Law Implemented 400.605(1)(i) FS. History—New 4-27-94, Formerly 59A-2.0236, Amended 6-5-97, 8-10-03.

58A-2.025 Physical Plant Requirements (Inpatient Facility and Unit).

(1) As used in this rule, “inpatient facility and unit” means the location where inpatient services are provided to hospice patients that are in need of hospice inpatient care.

(2) Codes and Standards.

(a) All new inpatient units and facilities, and additions or renovations to existing units and facilities shall be in compliance with the requirements for:

1. Institutional Occupancy – Group I, Unrestrained, of the Florida Building Code as described in Chapter 3 of Section 309.1 as adopted by the Florida Building Commission and incorporated by reference in subsection 9B-3.047(1), F.A.C., dated December 16, 2001, by the Department of Community Affairs and obtainable from the Southern Building Code Congress International, Inc., 900 Montclair Road, Birmingham, Alabama 35213-1206, after 8-10-03; and

2. The National Fire Protection Association Life Safety Code 101, Chapter 18, New Health Care Occupancy, as described in Rule 4A-3.012, F.A.C., Standards of the National Fire Protection Association and incorporated by reference in Rule 4A-3.012, F.A.C., dated November 6, 2001, by the Division of State Fire Marshal at the Department of Finance and obtainable from the National Fire Protection Association, 1 Batterymarch Park, P. O. Box 9101, Quincy, Massachusetts, 02269-9101, after 8-10-03.

All new inpatient facilities and units will be made accessible and shall comply with the requirements of the Florida Building Code, Chapter 11, as adopted by the Florida Building Commission and Section 11-6.1(1) of the Florida Building Code and incorporated by reference in subsection 9B-3.047(1), F.A.C., dated December 16, 2001, by the Department of Community Affairs and which is incorporated by reference and obtainable from the Southern Building Code Congress International, Inc., 900 Montclair Road, Birmingham, Alabama 35213-1206, after 8-10-03.

a. In renovations and additions to existing facilities, only that portion of the total facility affected by the project must comply with applicable sections of the codes for new facilities and units, after 8-10-03.

b. Existing portions of the facility that are not included in the renovation or addition but are essential to the functioning of the complete facility, as well as existing areas which receive less than substantial amounts of new work, shall comply with the applicable sections of the codes for existing inpatients facilities and units, after 8-10-03.

(b) All existing inpatient facilities and units licensed by the Agency for Health Care Administration before the date this rule is promulgated, shall be in compliance with National Fire Protection Association Life Safety Code 101, Chapter 19, Existing Health Care Occupancy, and incorporated by reference in Rule 4A-3.012, F.A.C., dated November 6, 2001, by the Department of Community Affairs and obtainable from the National Fire Protection Association, 1 Batterymarch Park, P. O. Box 9101, Quincy, Massachusetts 02269-9101, after 8-10-03.

(3) Construction Requirements. The following shall be provided in each inpatient facility and unit:

(a) The hospice shall be responsible for assuring that the planning and decoration of the facilities, both contractual arrangements and free-standing, shall be coordinated to provide a homelike atmosphere. For purposes of this rule, a “homelike atmosphere” means at a minimum, items typically found at home or in a residence that enhance quality of life. The following items are examples of a “homelike atmosphere”: window treatments, lamps, guest seating, and wall decorations. A hospital or nursing home room shall not be required to be in compliance with this section of the rule by the fact of its licensure.

(b) Each patient sleeping room shall have a minimum room area exclusive of toilet room, or permanently attached or built in closets, lockers or wardrobes, of one hundred (100) square feet (9.29 square meters) per bed for private rooms and eighty (80) square feet (7.70 square meters) per bed for double occupancy rooms.

(c) Each patient sleeping room shall have a window or door with a clear glass light in compliance with Chapter 12 of Section 1203, Light and Ventilation, of the Florida Building Code and incorporated by reference in subsection 9B-3.047(1), F.A.C., dated December 16, 2001, by the Department of Community Affairs and obtainable from the Department of Community Affairs, Building Codes and Standards, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, (850) 487-1824 after 8-10-03. The window or door shall open directly to an atrium or to the outside of the building with a minimum of twenty (20) feet (6.10 meters) in clear and unobstructed vista measured perpendicularly from the window or door.

(d) Each patient sleeping room shall have a wardrobe, locker or closet suitable for hanging clothing of the patient.

(e) Other than a patient sleeping room located in a hospital or nursing home, each patient sleeping room shall have access to a toilet room without having to enter the general corridor area. One toilet room shall serve no more than four beds and no more than two resident rooms. The door shall be side hinged, swing out from the toilet room, and unless otherwise required by this code, be at least 32 inches (81.28 centimeters) wide. The toilet room shall contain a water closet with grab bars on both sides and an emergency nurse call station. The water closet shall be equipped with a bedpan-rinsing device.

(f) A hand washing facility shall be provided within each patient toilet room or within each patient bedroom.

(g) A nurses' station, clean workroom and soiled workroom shall be provided. Access to these rooms shall be from a corridor.

(h) A charting space for clinical staff shall be provided at each nurses' station.

(i) A hand washing facility shall be located in or near each nurses' station.

(j) The clean workroom shall be provided with a work counter, hand wash facility, storage facilities and covered waste receptacle.

(k) The soiled workroom shall be provided with a service sink equipped with rinsing device, work counter, a hand washing facility, storage facilities, covered waste receptacle, and covered linen receptacle.

(l) A drug distribution system shall be provided with provisions for the locked storage of medications. Nothing in this section shall prohibit the use of the clean workroom for drug distribution.

(m) A clean linen storage room or closet shall be provided.

(n) A nourishment station with equipment for preparing or serving nourishments between scheduled meals shall be provided and shall be available for patient, family, volunteers, guests and staff use. Provisions shall be made for the use and storage of small appliances requiring less than 220 volts of service such as coffee makers or toasters.

(o) A nurse calling system accessible by the patient shall be provided.

(p) Storage for administrative supplies shall be provided.

(q) Parking for stretchers and wheelchairs in an area out of the path of normal traffic and of adequate size for the unit shall be provided.

(r) A janitor's closet with a floor receptor and storage space for housekeeping equipment and supplies shall be provided.

(s) A multi-purpose lounge suitable and furnished for reception, recreation, dining, visitation, group social activities, and worship shall be provided.

(t) A conference or consultation room for patient and family use shall be provided.

(u) A washer and dryer for patients' personal use shall be provided.

(4) Room furnishings for each patient shall include an adjustable frame hospital type bed with side rails, a bedside stand, an over-the-bed table, an individual reading light easily accessible to the patient, and a comfortable sitting chair.

(5) Room decor shall be non-institutional in design and function. Patients shall be permitted to bring personal items of furniture or furnishings into their rooms unless medically contraindicated.

(6) Details.

(a) Fixtures such as drinking fountains, public telephone, vending machines, and portable equipment shall not be located or stored so as to restrict corridor traffic or reduce the minimum required corridor width.

(b) Doors to patient tub rooms, showers, and water closets that swing into the room shall be equipped with reversible hardware that will allow the door to swing out in an emergency.

(c) Doors, except those to closets or spaces not subject to occupancy, shall not swing into the exit access corridors.

(d) Windows and outer doors, if used for ventilation, shall be equipped with insect screens.

(e) Thresholds and expansion joint covers shall be made flush with the floor surface.

(f) Grab bars shall be provided at all patient toilets, showers, and tubs. The bars shall have a clearance of 1-1/2 inches (38.1 millimeters) to the walls and shall be sufficiently anchored to sustain a concentrated applied load of not less than 250 pounds (113.4 kilograms).

(g) Single paper towel dispensers, soap dispensers and covered waste receptacles shall be provided at all hand washing facilities.

(h) Staff hand washing facilities shall be fitted with wrist blades and a gooseneck type spout.

(i) All hand washing facilities shall be securely anchored to withstand an applied vertical load of not less than two hundred and fifty pounds on the front of the fixture.

(7) Elevators. In new multistory units and facilities an elevator shall be provided in compliance with the requirements of Chapter 30 of the Florida Building Code, as adopted by the Florida Building Commission and incorporated by reference in subsection 9B-3.047(1), F.A.C., dated December 16, 2001, by the Department of Community Affairs and obtainable from the Southern Building Code Congress International, Inc., 900 Montclair Road, Birmingham, Alabama 35213-1206, after 8-10-03. In addition, a hospital-type elevator large enough to accommodate a bed and attending staff shall service all patient sleeping rooms and patient treatment areas located above the ground floor. The car shall be at least 5 feet 8 inches (1.73 meters) wide by 9 feet (2.74 meters) deep and the car doors shall have a clear opening of not less than 4 feet (1.22 meters) wide and 7 feet (2.13 meters) high.

(8) Mechanical System Requirements.

(a) Air conditioning, heating and ventilating systems.

1. All patient occupied areas shall be heated or cooled by individual or central units. Heating units shall be designed to provide a minimum of 72 degrees Fahrenheit (22.22 Celsius) ambient indoor temperature and air conditioning units shall be designed to provide a minimum of 78 degrees Fahrenheit (25.55 Celsius) ambient indoor temperature.

2. All air-supply and air-exhaust systems shall be mechanically operated. Fans serving exhaust systems shall be located at the discharge end of the system.

(b) Plumbing and other piping systems. Water distribution systems shall be arranged to provide hot water at each hot water outlet at all times. Hot water at shower, bathing, and hand washing facilities for patients' personal use shall not exceed 110 degrees Fahrenheit (43.3 degrees Celsius).

(9) Electrical System Requirements.

(a) Lighting.

1. All spaces occupied by people, machinery, and equipment within the building, approaches to building, and parking areas shall have electric lighting.

2. All patients' rooms shall have general lighting and night lighting. General room luminaries shall be switched at the entrance to the patient room.

(b) Receptacles. All patient rooms shall have hospital grade duplex grounding type receptacles.

(10) Emergency Electrical System.

(a) A Type 1 essential electrical system shall be provided in all hospice facilities as described in National Fire Protection Association Life Safety Code 99, "Health Care Facilities", and incorporated by reference in Rule 4A-3.012, F.A.C., dated November 6, 2001, by Division of State Fire Marshal at the Department of Finance and obtainable from the National Fire Protection Association, 1 Batterymarch Park, P. O. Box 9101, Quincy, Massachusetts 02269-9101, after 8-10-03. The emergency power for this system shall meet the requirements of a Level 1, type 10, Class 48 generator as described in National Fire Protection Association Life Safety Code 110, "Emergency Standby Power Systems", and incorporated by reference in Rule 4A-3.012, F.A.C., dated November 6, 2001, and obtainable from the National Fire Protection Association, 1 Batterymarch Park, P. O. Box 9101, Quincy, Massachusetts 02269-9101, after 8-10-03.

(b) In new construction, the normal main service equipment shall be separated from the emergency distribution equipment by locating it in a separate room. Transfer switches shall be considered emergency distribution equipment for this purpose.

(c) Switches for critical branch lighting shall be completely separate from normal switching. The devices or cover plates shall be of a distinctive color. Critical branch switches are permitted to be adjacent to normal switches. Switches for life safety lighting are not permitted except as required for dusk-to-dawn automatic control of exterior lighting fixtures.

(d) There shall be selected life safety lighting provided at a minimum of 1 footcandle and designed for automatic dusk-to-dawn operation along the travel paths from the exits to the public way or to safe areas located a minimum of 30 feet (9.14 meters) from the building.

(e) A minimum of one elevator per bank serving any patient use floor shall be connected to the equipment branch of the essential electric system and arranged for manual or automatic operation during loss of normal power. Elevator cab lighting, controls, and communication and signal systems shall be connected to the life safety branch.

(f) There shall be a dedicated low fuel alarm for the day tank supplying the emergency generator driver. A manual pump shall also be provided for the day tank. The alarm shall be located at the generator derangement panel.

(g) Transfer switch contacts shall be of the open type and shall be accessible for inspection and replacement.

(h) If required by the facility's emergency food plan, there shall be power connected to the equipment branch of the essential electrical system for kitchen refrigerators, freezers and range hood exhaust fans. Selected lighting within the kitchen and dry storage areas shall be connected to the critical branch of the essential electrical system.

Specific Authority 400.605 FS. Law Implemented 400.605(1)(i) FS. History—New 8-10-03.

58A-2.026 Comprehensive Emergency Management Plan.

(1) Pursuant to Section 400.610(1)(b), F.S., each hospice shall prepare and maintain a comprehensive emergency management plan, hereinafter referred to as “the plan,” in accordance with the “Comprehensive Emergency Management Planning Criteria for Hospices,” DOEA Form 001H, October 2001, which is incorporated by reference. This document is available through the Agency for Health Care Administration, 2727 Mahan Drive, Tallahassee, Florida 32308, and shall be included as part of the hospice’s comprehensive emergency management plan.

(2) The plan shall be submitted for review to the local County Health Department or by the Department of Health, pursuant to Section 400.610(1)(b), F.S., in those counties where the Department of Health receives funding for such reviews, pursuant to Section 381.0303(7), F.S.

(a) Upon approval of the plan by the local County Health Department or the Department of Health, in counties where the Department has authority to approve the plan, the hospice shall provide a copy of the plan to the local emergency management agency in each county served by the hospice.

(3) Changes in the after-hours emergency telephone number and address of those staff who are coordinating the hospice’s emergency response shall be reported by the hospice to the hospice’s local emergency management agency. The telephone numbers must include all numbers where the coordinating staff can be contacted outside the hospice’s regular office hours. All hospices must report these changes, whether the plan has been previously reviewed or not, as defined in subsection (2) above.

(4) Upon a change of ownership, the new owner shall submit a new plan identifying any substantive changes, including facility renovations and changes noted in subsection (3) above. Those hospices which previously have had the plan reviewed by the local County Health Department or by the Department of Health, as defined in subsection (2) above, shall report any substantive changes to the reviewing entity.

(5) The plan shall describe:

(a) Procedures to ensure adequate preparation of hospice patients for potential or imminent emergencies and disasters.

(b) Procedures for annual review of the plan and for making substantive changes by the governing body.

(6) In the event of an emergency the hospice shall implement the hospice’s plan in accordance with Section 400.610, F.S.

(7) On admission, each hospice patient and, where applicable, home hospice caregiver shall be informed of the hospice plan and of the special needs registry maintained by the local emergency management agency, pursuant to Section 252.355, F.S. The hospice shall document in the patient’s file:

(a) If the patient plans to evacuate the patient’s home or the hospice facility;

(b) If during the emergency the caregiver can take responsibility for services normally provided by the hospice to the home patient; or

(c) If the hospice needs to arrange for alternative caregiver services for the patient.

(8) Upon imminent threat of an emergency or disaster, the hospice shall confirm each patient’s plan during and immediately following an emergency.

(9) When the hospice is unable to provide services during an emergency, the hospice shall make all reasonable efforts to inform, where applicable, those facility and home patients whose services will be interrupted during the emergency, including patients sheltering in place, and shall inform when services are anticipated to be restored.

(10) Each hospice shall contact the local emergency management agency in each county served by that hospice to determine procedures for registration of special-needs registrants as referenced in Section 252.355, F.S.

(11) Each hospice shall collect upon admission registration information for special-needs registrants who will require continuing care or services during a disaster or emergency, consistent with Section 252.355, F.S. This registration information shall be submitted, when collected, to the local emergency management agency, or on a periodic basis as determined by the local emergency management agency.

(12) The hospice shall educate patients registered with the special-needs registry that special-needs shelters are an option of last resort and that services may not be equal to those received in the hospice programs.

(13) The hospice shall maintain a current list of clients who are special-needs registrants, and shall forward this list to the local emergency management agency upon imminent threat of disaster or emergency and in accordance with the local emergency management agency procedures.

(14) Each hospice patient record for patients who are listed in the registry established pursuant to Section 252.355, F.S., shall include a description of how care or services will be continued in the event of an emergency or disaster. The hospice shall discuss the emergency provisions with the patient and the patient’s caregiver, including where and how the patient is to evacuate, procedures for notifying the hospice in the event that the patient evacuates to a location other than the shelter identified in the patient record and advance directives, and the hospice shall make arrangements to make the list of medications, supplies, and equipment available to each patient in the event of an evacuation.

(15) The hospice shall maintain for each patient who is a special-needs registrant a list of client-specific medications, supplies, and equipment required for continuing care and service, should the patient be evacuated. If the hospice provides services to home patients, the hospice shall make arrangements to make the list of medications, supplies, and equipment available to each special-needs registrant in the event of an evacuation. The hospice shall notify the registrant that the registrant is responsible for maintaining a supply of medications in the home. The list of medication shall include the names of all medications, dose,

frequency, times and any other special considerations for administration, any allergies, names of physicians and telephone numbers, and name and telephone number of the patient's pharmacy. If the patient gives consent, the list may also include the patient's diagnosis.

Specific Authority 400.605 FS. Law Implemented 400.605 FS. History--New 8-6-02.

58A-2.027 Hospice Employee Training Requirements.

(1) Each hospice licensed under Part VI of Chapter 400, F.S., shall provide that hospice employees receive the following training:

(a) Completion of the required initial one hour of training after June 30, 2003, shall satisfy the requirement referenced in subsection 400.6045(1)(b), F.S. Initial one-hour training shall address the following subject areas:

1. Understanding Alzheimer's Disease and Related Disorders;
2. Characteristics of Alzheimer's Disease and Related Disorders; and
3. Communicating with patients with Alzheimer's Disease or Related Disorders.

(b) Completion of the required three hours of training after June 30, 2003, shall satisfy the requirement referenced in subsection 400.6045(1)(c), F.S. The three hours of training must address the following subject areas as they apply to Alzheimer's Disease and Related Disorders:

1. Behavior management;
2. Assistance with activities of daily life to promote the patient's independence;
3. Activities for patients;
4. Stress management for the care giver;
5. Family issues;
6. Patient environment; and
7. Ethical issues.

(c) A detailed description of the subject areas that shall be included in a 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 Hospice Patients with Alzheimer's Disease or Related Disorders, September 2003, incorporated by reference, available from the Department of Elder Affairs, 4040 Esplanade Way, Tallahassee, Florida 32399-7000.

(d) Persons who seek to provide Alzheimer's Disease or Related Disorders training in accordance with this subsection shall provide the Department of Elder Affairs or its designee documentation that they hold a Bachelor's degree in a health-care, human service, or gerontology related field from an accredited college or university or hold a license as a registered nurse, and:

1. Possess teaching or training experience as an educator of care givers for persons with Alzheimer's Disease or Related Disorders; or
2. Have one year of practical experience in a program providing care to persons with Alzheimer's Disease or Related Disorders; or
3. Have completed a specialized training program in Alzheimer's Disease or Related Disorders from a university or an accredited health care or human service or gerontology continuing education provider.

(e) With reference to requirements in paragraph (d), years of teaching experience or training as an educator of care givers for persons with Alzheimer's Disease or Related Disorders may substitute on a year-by-year basis for the required Bachelor's degree. A Master's degree from an accredited college or university in a subject related to health-care, human service, or gerontology can substitute for the teaching or training experience referenced in paragraph (d).

(2) A hospice employee who has successfully completed training and continuing education consistent with the requirements of Section 400.4178, F.S., or completed training consistent with the requirements of Section 400.1755 or 400.5571, F.S., shall be considered as having met the training requirements of this rule.

(3) All training required by this rule and Section 400.6045, F.S., must be completed only once for each applicable employee.

Specific Authority 400.6045(1) FS. Law Implemented 400.6045(1) FS. History--New 1-1-04.

58A-2.028 Hospice Training Provider and Curriculum Approval.

(1) Persons seeking approval as an Alzheimer's Disease or Related Disorders training provider shall complete DOEA form Hospice/ADRD-001, Application for Alzheimer's Disease or Related Disorders Training Provider Certification, dated September 2003, which is incorporated by reference and available at the Department of Elder Affairs, 4040 Esplanade Way, Tallahassee, Florida 32399-7000. Persons seeking to obtain approval of the Alzheimer's Disease or Related Disorder curriculum shall complete DOEA form Hospice/ADRD-002, Application for Alzheimer's Disease or Related Disorders Training Three-Year Curriculum Certification, dated September 2003, which is incorporated by reference and available at the Department of Elder Affairs, 4040 Esplanade Way, Tallahassee, Florida 32399-7000. Approval must be obtained from the Department or its designee for the training provider and the training curriculum prior to commencing training activities. Approval of the training curriculum shall be granted for 3 years, whereupon the training curriculum must be re-submitted to the Department or its designee for re-approval.

(2) Upon receipt of the training provider's or the training curriculum application, the Department or its designee shall respond in writing within 30 calendar days in one of the following three ways:

(a) Notify the applicant that the application is approved or not approved. If an application is not approved, the Department or its designee shall respond in writing indicating the reasons for not approving the application and information or documentation needed for approval;

(b) Request additional information from the applicant in order to make a determination. Requested information omitted from an application shall be filed with the Department or its designee within 90 days of the Department's or its designee's request for omitted information, or the application shall be deemed incomplete, and shall be withdrawn from further consideration. Once the additional information has been received by the Department or its designee the Department or its designee will have 30 calendar days to make a determination; or

(c) Notify the applicant that an additional 30 calendar days is needed to review the application and make a determination. Upon notice of approval from the Department or its designee, the applicant may be identified as an approved training provider or as having an approved training curriculum as indicated by the Department or its designee. The Department or its designee shall maintain a list of approved training providers and training curriculum and provide a list of approved training providers to all interested parties upon request.

(3) 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 training and the Department of Elder Affairs curriculum approval number, the number of hours of training, the participant's name, dates of attendance, location, the training provider's name and the Department of Elder Affairs training provider's 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 400.6045, F.S., and Rule 58A-2.027, F.A.C.

(4) The Department reserves the right to attend and monitor training courses, review records and course materials approved pursuant to this rule, and revoke approved training provider status on the basis of non-adherence to approved curricula, the provider's failure to maintain required training credentials, or circumstances in which the provider is found to knowingly disseminate any false or misleading information.

(5) Training providers and training curricula which are approved consistent with the provisions of Sections 400.4178, 400.1755 and 400.5571, F.S., shall be considered as having met the requirements of this rule.

(6) Certificates or copies of certificates of any training required by this rule shall be documented in the hospice's personnel files.

Specific Authority 400.6045(1) FS. Law Implemented 400.6045(1) FS. History--New 1-1-04.

CHAPTER 58A-4 NURSING HOME TRAINING

- 58A-4.001 Nursing Home Employee Training Requirements.
58A-4.002 Nursing Home Training Provider and Curriculum Approval.

58A-4.001 Nursing Home Employee Training Requirements

(1) Each facility licensed under Part II of Chapter 400, F.S., shall ensure that facility employees receive the following training:

(a) Completion of the required initial one hour of training after June 30, 2001, shall satisfy the requirement referenced in subsection 400.1755(2), F.S. Facility employees who meet the requirements for Alzheimer's Disease or Related Disorders training providers under paragraph (d) of this subsection shall be considered as having met this requirement. Initial one-hour training shall address the following subject areas:

1. Understanding Alzheimer's Disease or Related Disorders;
2. Characteristics of Alzheimer's Disease or Related Disorders; and
3. Communicating with residents with Alzheimer's Disease or Related Disorders.

(b) Completion of the required continuing three hours of training after June 30, 2001, shall satisfy the requirement referenced in subsection 400.1755(3), F.S. Facility employees who meet the requirements for Alzheimer's Disease or Related Disorders training providers under paragraph (d) of this subsection shall be considered as having met the requirements of subsection 400.1755(3), F.S. The three hours of continuing training must address the following subject areas as they apply to Alzheimer's Disease or Related Disorders:

1. Behavior management;
2. Assistance with activities of daily life;
3. Activities for residents;
4. Stress management for the care giver;
5. Family issues;
6. Resident environment; and
7. Ethical issues.

(c) A detailed description of the subject areas that shall be included in a 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 Nursing-Home Residents with Alzheimer's Disease or Related Disorders, October 2001, incorporated by reference, available from the Department of Elder Affairs, 4040 Esplanade Way, Tallahassee, Florida 32399-7000.

(d) Persons who seek to provide Alzheimer's Disease or Related Disorders training in accordance with this subsection shall provide the Department of Elder Affairs or its designee documentation that they hold a Bachelor's degree in a health-care, human service, or gerontology related field from an accredited college or university or hold a license as a registered nurse, and:

1. Possess teaching or training experience as an educator of care givers for persons with Alzheimer's Disease or Related Disorders;
2. Have one year of practical experience in a program providing care to persons with Alzheimer's Disease or Related Disorders; or
3. Have completed a specialized training program in Alzheimer's Disease or Related Disorders from a university or an accredited health care or human service or gerontology continuing education provider.

(e) With reference to requirements in paragraph (d), a Master's degree from an accredited college or university in a subject related to health-care, human service, or gerontology can substitute for the teaching or training experience referenced in subsection (2). Years of teaching experience or training as an educator of care givers for persons with Alzheimer's Disease or Related Disorders may substitute on a year-by-year basis for the required Bachelor's degree.

(2) A facility employee who has successfully completed training and continuing education consistent with the requirements of Section 400.4178, F.S., shall be considered as having met the training requirements of this rule.

Specific Authority 400.1755 FS. Law Implemented 400.1755 FS. History—New 2-3-02.

58A-4.002 Nursing Home Training Provider and Curriculum Approval.

(1) Persons seeking approval as an Alzheimer's Disease or Related Disorders training provider shall complete DOEA Form ADRD-001, Application for Alzheimer's Disease or Related Disorders Training Provider Certification, dated November 2001, which is incorporated by reference and available at the Department of Elder Affairs, 4040 Esplanade Way, Tallahassee, Florida 32399-7000. Persons seeking to obtain approval of the Alzheimer's Disease or Related Disorder curriculum shall complete DOEA Form ADRD-002, Application for Alzheimer's Disease or Related Disorders Training Three-Year Curriculum Certification, dated November 2001, which is incorporated by reference and available at the Department of Elder Affairs, 4040 Esplanade Way, Tallahassee, Florida 32399-7000. Approval must be obtained from the Department or its designee for the training provider and the training curriculum prior to commencing training activities. Approval of the training curriculum shall be granted for 3 years, whereupon the training curriculum must be re-submitted to the Department or its designee for re-approval.

(2) Upon receipt of the training provider's or the training curriculum application, the Department or its designee shall respond in writing within 30 calendar days in one of the following three ways:

(a) Notify the applicant that the application is approved or not approved;

(b) Request additional information from the applicant in order to make a determination. Upon receipt of the additional information by the Department or its designee, the Department or its designee will have 30 calendar days to make a determination; or

(c) Notify the applicant that an additional 30 calendar days is needed to review the application and make a determination.

Upon notice of approval from the Department or its designee, the applicant may be identified as an approved training provider or approved training curriculum as indicated by the Department or its designee. The Department or its designee shall maintain a list of approved training providers and training curriculum and provide a list of approved training providers to all interested parties upon request.

(3) If an applicant's application is not approved, the Department or its designee shall respond in writing within 30 calendar days indicating the reasons for not approving the application and information or documentation needed for approval.

(4) Approved training providers shall maintain records of each course taught for a period of three years following each program presentation. Course records shall include the title of the training program, the number of hours of training, the training provider's name, the date and location of the course, and a roster of trainees.

(5) 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 course, the number of hours of training, the participant's name, dates of attendance, location, the training provider's name, dated signature, and, if held, the trainee's license or certification number.

(6) The Department reserves the right to attend and monitor training courses, review records and course materials approved pursuant to this rule, and revoke approved training provider status on the basis of non-adherence to approved curricula, the provider's failure to maintain required training credentials, or circumstances in which the provider is found to knowingly disseminate any false or misleading information.

(7) Certificates of any training required by this rule shall be documented in the facility's personnel files.

(8) Training providers and curricula which are approved consistent with the provisions of Section 400.4178, F.S., shall be considered as having met the requirements of this subsection.

Specific Authority 400.1755 FS. Law Implemented 400.1755 FS. History—New 2-3-02

CHAPTER 58A-5 ASSISTED LIVING FACILITIES

58A-5.013	Purpose. (Repealed)
58A-5.0131	Definitions.
58A-5.014	License Application.
58A-5.016	License.
58A-5.0161	Inspection Responsibilities of Health Program Office and the Agency for Health Care Administration.
58A-5.0181	Admission Criteria and Procedures.
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-5.019	Staffing Standards.
58A-5.0191	Staff Training Requirements and Training Fees.
58A-5.020	Food Service Standards.
58A-5.021	Fiscal Standards.
58A-5.022	Facility Maintenance and Housekeeping Standards. (Repealed)
58A-5.0221	Water Supply. (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.
58A-5.031	Limited Nursing Services.
58A-5.033	Administrative Enforcement.
58A-5.035	Waivers.

58A-5.0131 Definitions.

The following terms are defined in Section 400.402, F.S., and are applicable to this rule chapter: activities of daily living (ADLs), administrator, agency (AHCA), aging in place or age in place, applicant, assisted living facility (ALF), chemical restraint, community living support plan, cooperative agreement, department (DOEA), emergency, extended congregate care (ECC), guardian, limited nursing services (LNS), managed risk, mental health resident, personal services, physical restraint, relative, resident, resident's representative or designee, service plan, shared responsibility, supervision, supplemental security income, supportive services, and twenty-four-hour nursing supervision. Additional definitions applicable in this rule chapter are as follows:

(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 shall not be considered advertising.

(2) "AHCA central office" means the Assisted Living Unit, Agency for Health Care Administration located at 227 N. Bronough Street, Room 7100, Tallahassee, FL. The mailing address for the Assisted Living Unit is 2727 Mahan Drive, Tallahassee, FL 32308-5403, and the telephone number is (850) 487-2515.

(3) "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.

(4) "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, 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 which are difficult for the resident to reach, or being available while the resident is bathing.

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

- (d) Eating – Helping with cutting food, pouring beverages, and feeding residents who are unable to feed themselves.
- (e) Grooming – Helping the resident with shaving, with oral care, with care of the hair, and with nail care.
- (f) Toileting – Assisting the resident to the bathroom, helping to undress, positioning on the commode, and helping with related personal hygiene, including assistance with changing an adult brief. Assistance with toileting includes assistance with the routine emptying of a catheter or colostomy bag.
- (5) “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.
- (6) “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 mechanical restraint.
- (7) “Capacity” means the number of residents for which a facility has been licensed to provide residential care.
- (8) “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; coordinating and assisting residents to gain access to needed medical, mental health, social, housing, educational or other services; monitoring service delivery; and evaluating the effects of service delivery.
- (9) “Certified nursing assistant (CNA)” means a person certified under Part XV of Chapter 468, F.S.
- (10) “Deficiency” means an instance of non-compliance with the requirements of Part III, Chapter 400, F.S., and this rule chapter.
- (11) “Direct care staff” means staff providing personal or nursing services to residents, or supervising staff providing such services.
- (12) “Distinct part” means designated bedrooms or apartments, bathrooms and a living area; or a separately identified wing, floor, or building which 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.
- (13) “DOEA Assisted Living Program” means the Assisted Living Program, Department of Elder Affairs, 4040 Esplanade Way, Tallahassee, Florida 32399-7000. The telephone number of the program is (850) 414-2309.
- (14) “Elopement” means an occurrence in which a resident leaves a facility without following facility policy and procedures.
- (15) “Food service” means the storage, preparation, serving, and cleaning up of food intended for consumption in a facility or a formal agreement that meals will be regularly catered by a third party.
- (16) “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.
- (17) “Hold itself out” means making any personal, verbal, telephone, mail contact, or other communication to a person or any announcement, solicitation, display, or advertisement to inform the general public of the services provided by the facility.
- (18) “Licensed dietitian/nutritionist” means a dietitian or nutritionist licensed in accordance with Section 468.509, F.S.
- (19) “Long-term care ombudsman council (LTCOC)” means the State Long-term Care Ombudsman Council or the district long-term care ombudsman councils established under Part I, Chapter 400, F.S.
- (20) “Major incident” means:
- Death of a resident from other than natural causes;
 - Determining that a resident is missing;
 - An assault on a resident resulting in injury;
 - An injury to a resident which requires assessment and treatment by a health care provider; or
 - Any event, such as a fire, natural disaster, or other occurrence that results in the disruption of the facility’s normal activities.
- (21) “Mental disorder” for the purposes of identifying a mental health resident means schizophrenic 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.
- (22) “Mental health care provider” means:
- An individual, agency, or organization under contract to the Department of Children and Family Services’ district Substance Abuse and Mental Health program office to provide mental health services to clients of the department;
 - An individual licensed by the state to provide mental health services; or
 - An agency or organization employing or contracting with individuals licensed by the state to provide mental health services.
- (23) “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. A private mental health care provider may serve as a resident’s mental health case manager.
- (24) “Newly licensed” means a new facility which is licensed for the first time. The term does not apply to an existing facility that has undergone a change of ownership.
- (25) “Nurse” means a licensed practical nurse (LPN), registered nurse (RN), or advanced registered nurse practitioner (ARNP) licensed under Chapter 464, F.S.
- (26) “Nursing assessment” means a written review of information collected from observation of and interaction with a resident, the resident’s record, and any other relevant sources; the analysis of the information; and recommendations for modification of the resident’s care, if warranted.

(27) "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 a limited nursing or extended congregate care license. The progress notes shall be completed by the nurse who delivered the service and shall describe the date, type, scope, amount, duration, and outcome of services that are rendered; the general status of the resident's health; any deviations; any contact with the resident's physician; and shall contain the signature and credential initials of the person rendering the service.

(28) "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.

(29) "Owner" means the person, partnership, association or corporation which owns or leases the facility, whether licensed or not. The term does not include a person, partnership, association, or corporation which contracts only to manage or operate the facility. When the person, partnership, association or corporation who owns the facility's physical plant has leased it to another, but retains significant control over the day-to-day operations of the facility, such person is an owner of the facility.

(30) "Physician" means an individual licensed under Chapter 458 or 459, F.S.

(31) "Registered dietitian" means an individual registered with the Commission on Dietetic Registration, the accrediting body of the American Dietetic Association.

(32) "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.

(33) "Respite care" means facility-based supervision of an impaired adult for the purpose of relieving the primary caregiver.

(34) "Significant change" means a sudden or major shift in behavior or mood, or a deterioration in health status such as unplanned weight change, stroke, heart condition, or stage 2, 3, or 4 pressure sore. Ordinary day-to-day fluctuations in functioning and behavior, a short-term illness such as a cold, or the gradual deterioration in the ability to carry out the activities of daily living that accompanies the aging process are not considered significant changes.

(35) "Staff" means any person employed by a facility; or contracting with a facility to provide direct or indirect services to residents; or employees of firms under contract to the facility to provide direct or indirect services to residents when present in the facility. The term includes volunteers performing any service which counts toward meeting any staffing requirement of this rule chapter.

(36) "Temporary license" means a license issued by Agency for Health Care Administration to an assisted living facility that supercedes and temporarily replaces the current license and remains in place pending the final disposition of a proceeding involving the suspension or revocation of an assisted living facility license.

(37) "Unscheduled service need" means a need for a personal service, nursing service, or mental health intervention which generally cannot be predicted in advance of the need for service, and which must be met promptly within a time frame which provides reasonable assurance that the resident's health, safety, and welfare and that of other residents shall be preserved.

Specific Authority 400.423, 400.441 FS. Law Implemented 400.402, 400.407, 400.4075, 400.411, 400.414, 400.4178, 400.419, 400.4255, 400.423, 400.428, 400.441, 400.447, 400.452 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.

58A-5.014 License Application, Change of Ownership, and Provisional Licenses.

(1) LICENSE APPLICATION. An applicant for a standard assisted living facility license, or a limited mental health, extended congregate care, or limited nursing license may obtain a license application package from the AHCA central office.

(a) The completed application shall be signed, under oath, by an owner (or corporate officer if the owner is a corporation), the administrator, or an individual designated in writing by an owner or corporate officer, who is at least 18 years old, and include the following:

1. The Assisted Living Facilities License Application, AHCA Form 3110-1008, March 1999, which is incorporated by reference, with all requested information provided as specified in Section 400.411(3), F.S.

2. An assets and liabilities statement, or AHCA Form 3180-1003, January 1998, which is incorporated by reference. The assets and liabilities statement shall include information about the assets available to cover claims against the owner and administrator and to demonstrate that the applicant has the financial ability to operate.

3. A statement of operations, or AHCA Form 3180-1002, July 1995, which is incorporated by reference. The statement of operations shall include projected revenues, expenses, taxes, extraordinary items, and other credits or charges for the first 12 months of operation.

4. If the proposed facility will be part of a continuing care retirement community, a copy of the Certificate of Authority to offer continuing care agreements issued pursuant to Chapter 651, F.S. The certificate may be used in lieu of fiscal documentation specified in subparagraphs 2. and 3.

5. Proof of liability insurance as required by Rule 58A-5.021, F.A.C.

6. For applicants anticipating a licensed capacity of 14 or fewer residents and located in an area zoned single-family or multi-family, documentation of compliance with the community residential home requirements specified in Chapter 419, F.S., obtained from the Department of Children and Family Services' district community residential home coordinator. If not located in

an area zoned single-family or multi-family, Local Zoning Form, AHCA Form 3180-1021, September 1996, which is incorporated by reference, or a letter from the local zoning authority, signed by the county zoning official, which states that the applicant is in compliance with local zoning ordinances.

7. Proof of legal right to occupy the property which may include copies of recorded deeds, or copies of lease or rental agreements, contracts for deeds, quitclaim deeds, or other such documentation.

8. Documentation of a satisfactory firesafety inspection conducted by the local authority having jurisdiction over fire safety or by the State Fire Marshall.

9. Documentation of a satisfactory sanitation inspection by the county health department.

10. For each person specified in Section 400.4174(1), F.S.:

a. A signed Florida Abuse Hotline Information System Background Check, AHCA Form 3110-0003, July 1998, which is incorporated by reference;

b. A set of fingerprints obtained from the nearest available local law enforcement agency on the fingerprint card provided by the agency; and

c. A check or money order to cover the cost of screening.

11. In lieu of the requirements of subparagraph 10., proof of compliance with the Level 2 background screening requirements of Section 435.04, F.S., conducted within the last 5 years pursuant to a facility or professional license requirement of AHCA or the Department of Health, a copy of the professional or facility license, and an affidavit of current compliance with Level 2 background screening standards may be substituted; for owners, administrators, and financial officers of continuing care retirement communities, proof of compliance with the background screening requirements of Rule 4-193.060, F.A.C., conducted within the last 5 years, plus signed AHCA Form 3110-0003, may be substituted.

12. A copy of any surety bond required pursuant to Rule 58A-5.021, F.A.C.

13. A copy of the proposed facility's floor plan indicating those areas to be licensed as an assisted living facility and, if applicable, the distinct part to be licensed as an extended congregate care facility if the entire assisted living facility is not to be so licensed.

14. Certificates of Occupancy shall be required from authorities charged with seeing that new buildings or renovations to existing buildings comply with state and local building codes. This must be provided at the time of the agency survey.

(b) An applicant for a limited mental health, extended congregate care, or limited nursing services license must concurrently apply for or hold a standard license and comply, in addition, with the applicable requirements of Rules 58A-5.029, 58A-5.030, and 58A-5.031, F.A.C., respectively. A limited mental health, extended congregate care, or limited nursing license shall only be issued to a facility holding a standard license.

(c) The application shall be submitted to the AHCA central office and be accompanied by a license fee in the form of a check or money order payable to the State of Florida. The license fee shall be in accordance with Section 400.407, F.S.

1. The fee for any special license shall be in addition to the standard license fee required by statute. When a special license is requested during a facility's standard license period, the fee will be prorated so that the special license will expire at the same time as the facility's standard license.

2. One check or money order can be submitted to cover all license fees and background screening costs.

3. For checks returned from the applicant's bank for whatever reason, the agency shall add to the amount due a service fee of \$20 or 5 percent of the face amount of the check, whichever is greater, up to a maximum charge of \$200.

(d) Upon submission of all documentation required under this subsection and fees, and notification to the agency area office that the applicant is ready for survey, the agency area office shall conduct a survey of the facility in accordance with Section 400.428(3), F.S.

(2) CHANGE OF OWNERSHIP (CHOW).

(a) Pursuant to Section 400.412, F.S., the transferor shall notify the agency in writing, at least 60 days prior to the date of transfer of ownership.

(b) Completed applications shall be filed with the agency by the transferee at least 60 days before the date of transfer of ownership as required by Section 400.412, F.S., and must include the information and fees required under subsection (1) of this rule. An application package for a change of ownership of a currently licensed facility is available from the AHCA central office.

(c) 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 shall be transferred to the applicant. Proof of such transfer shall be provided to the agency at the time of the agency survey and prior to 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.

1. The transferor shall provide to each resident a statement detailing the amount and type of funds credited to the resident for whom funds are held by the facility.

2. The transferee shall 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.

(d) The current resident contract on file with the facility shall be considered valid until such time as the transferee is licensed and negotiates a new contract with the resident.

(e) Failure to apply for a change of ownership of a licensed facility as required by Section 400.412, F.S., shall result in a fine set and levied by the agency pursuant to Section 400.419, F.S. This is also applicable to individual owners who incorporate and do not report the incorporation to the agency.

(f) During a change of ownership, the owner of record is responsible for ensuring that the needs of all residents are met at all times in accordance with Part III of Chapter 400, F.S., and this rule chapter.

(3) PROVISIONAL LICENSE.

(a) The agency shall issue a provisional license to an applicant making an initial application for a standard license or who has filed a completed application for a change of ownership, if the applicant has met all other licensing requirements and is:

1. Waiting for the receipt of Federal Bureau of Investigation background screening results; or
2. Waiting for a response to a request for an exemption from the background screening standards listed in Section 435.03 or 435.05, F.S., as applicable, provided that the exemption from disqualification request is for: felonies committed more than 10 years ago; misdemeanors, including offenses that were felonies when committed but are now misdemeanors; findings of delinquency; and acts of domestic violence committed more than 5 years ago.

(b) A provisional license issued pursuant to an initial application for license shall not be considered equivalent to a standard license for the purposes of issuing a limited mental health, extended congregate care, or limited nursing services license.

(c) A provisional license issued pursuant to a change of ownership application shall be considered equivalent to a standard license for the purpose of issuing a limited mental health, extended congregate care, or limited nursing services license.

(d) A provisional license shall be issued for a specific period of time as determined by the agency provided such time is not less than 1 month nor for more than 6 months.

(4) LICENSE DENIAL. Owners denied a license shall be notified by the agency of their right to appeal the denial, the remedies available, and the time limit for requesting such remedies as provided under Part II of Rule Chapter 59-1, F.A.C. and Chapter 120, F.S.

Specific Authority 400.407, 400.441 FS. Law Implemented 400.402, 400.404, 400.407, 400.408, 400.411, 400.412, 400.4174, 400.427, 400.4275, 400.441, 400.444, 400.4445, 400.447 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.

58A-5.015 License Renewal and Conditional Licenses.

(1) LICENSE RENEWAL. Applications for license renewal shall be mailed biennially by the AHCA central office to the licensee no less than 120 days prior to the expiration of the current license. Applications shall be postmarked or hand delivered to the agency a minimum of 90 days prior to the expiration date appearing on the currently held license. Failure to file a timely application shall result in a late fee charged to the facility as described in Section 400.417, F.S.

(a) All applicants for renewal of a license shall submit the following:

1. An Assisted Living Facilities License Application, AHCA Form 3110-1008, March 1999, completed as required under Rule 58A-5.014, F.A.C.
2. Proof of liability insurance as required by Rule 58A-5.021, F.A.C.
3. A copy of the annual fire safety inspection conducted by the local authority having jurisdiction over fire safety or the State Fire Marshal. Documentation of a satisfactory fire safety inspection shall be provided at the time of the agency's biennial survey.
4. A copy of the annual sanitation inspection by the county health department. Documentation of a satisfactory sanitation inspection shall be provided at the time of the agency's biennial survey.
5. An affidavit of current compliance with level 1 and 2 background screening conducted pursuant to Section 400.4174, F.S.
6. A copy of any surety bond or continuation bond required by Rule 58A-5.021, F.A.C.
7. A copy of the facility's floor plan if different from the previous application.

(b) Applicants for renewal of a license shall not be required to provide proof of financial ability to operate unless the facility or any other facility owned or operated in whole or part by the same owner or business entity has demonstrated financial instability as described in Rule 58A-5.021, F.A.C.

(c) Applicants for renewal of licenses shall remit license fees as required by Section 400.407, F.S., and Rule 58A-5.014, F.A.C. 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.

(2) CONDITIONAL LICENSE. Except as provided under Section 400.414, F.S., the agency shall issue a conditional license to a facility if, at the time of license renewal the facility is found to have uncorrected violations which the facility has had an opportunity to correct.

(a) The issuance of a conditional license shall be contingent upon agency approval of a written plan of correction which includes corrective steps that will be taken to eliminate the deficiencies and a timetable for correction of the deficiencies by the expiration date of the conditional license.

(b) A conditional license shall be issued by the agency only for that time period necessary to comply with applicable licensing standards and complete license renewal procedures, but not to exceed 6 months.

(c) A conditional license shall be revoked if subsequent follow-up surveys by the agency indicate that necessary progress has not been made toward compliance with applicable licensing standards.

(d) The issuance of a conditional license does not change the biennial license expiration date.

(3) **LICENSE DENIAL.**

(a) Applicants denied a license shall be notified by the agency of their right to appeal the denial, the remedies available, and the time limit for requesting such remedies as provided under Part II of Rule Chapter 59-1, F.A.C. and Chapter 120, F.S.

(b) Pursuant to Section 400.414, F.S., agency notice of license denial following a renewal application shall be posted and visible to the public at the facility.

Specific Authority 400.441 FS. Law Implemented 400.402, 400.404, 400.407, 400.411, 400.414, 400.417, 400.4174, 400.427, 400.4275, 400.441, 400.447 FS. History-New 10-17-99.

58A-5.016 License.

(1) An ALF may not hold itself out to the public as providing any service other than a service for which it is licensed to provide.

(2) Licenses are not transferable. Whenever a facility is sold or ownership is transferred, including leasing, the transferor and transferee must comply with the provisions of Section 400.412, F.S., and the transferee must submit a change of ownership license application pursuant to Rule 58A-5.014, F.A.C.

(3) A change in the use of space that increases or decreases a facility's capacity shall not be made without prior approval from the AHCA central office. Approval shall 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 firesafety and sanitation standards as referenced in Rule 58A-5.0161, F.A.C.

(4) A change in the use of space that involves converting to resident use an area which has not previously been inspected for such use shall not be made without prior approval from the AHCA area office. Approval shall 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 firesafety and sanitation standards as referenced in Rule 58A-5.0161, F.A.C.

(5) 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 Part III, Chapter 400, F.S., and this rule chapter.

Specific Authority 400.441 FS. Law Implemented 400.407, 400.411, 400.412, 400.441, 400.444, 400.4445 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.

58A-5.0161 Inspection Responsibilities.

(1) County health departments shall be 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 Marshall shall be responsible for inspecting all license applicants and licensed facilities in matters regulated by Section 400.441, F.S., relating to uniform fire safety standards and Chapter 4A-40, F.A.C., Uniform Fire Safety Standards for Assisted Living Facilities.

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

Specific Authority 400.441 FS. Law Implemented 400.441 FS. History-New 8-15-90, Formerly 10A-5.0161, Amended 10-30-95, 10-17-99.

58A-5.0181 Residency Criteria and Admission Procedures.

(1) **ADMISSION CRITERIA.** An individual must meet the following minimum criteria in order to be admitted to a facility holding a standard, limited nursing or limited mental health license.

(a) Be at least 18 years of age.

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

(c) Be able to perform the activities of daily living, with supervision or assistance if necessary.

(d) Be able to transfer, with assistance if necessary. The assistance of more than one person is permitted.

(e) Be capable of taking his/her own medication with assistance from staff if necessary.

1. If the individual needs assistance with self-administration the facility must inform the resident of the professional qualifications of facility staff who will be providing this assistance, and if unlicensed staff will be providing such assistance, obtain the resident's or the resident's surrogate, guardian, or attorney-in-fact's written informed consent to provide such assistance as required under Section 400.4256, F.S.

2. The facility may accept a resident who requires the administration of medication, if the facility has a nurse to 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 to provide this service to the resident.

(f) Any special dietary needs can be met by the facility.

(g) Not be a danger to self or others as determined by a physician, or mental health practitioner licensed under Chapters 490 or 491, F.S.

(h) Not require licensed professional mental health treatment on a 24-hour a day basis.

(i) Not be bedridden.

(j) Not have any stage 3 or 4 pressure sores. A resident requiring care of a stage 2 pressure sore, may be admitted provided that:

1. The facility has a LNS license and services are provided pursuant to a plan of care issued by a physician, or the resident contracts directly with a licensed home health agency or a nurse to provide care;

2. The condition is documented in the resident's record; and

3. If the resident's condition fails to improve within 30 days, the resident shall be discharged from the facility.

(k) Not require any of the following nursing services:

1. Oral or nasopharyngeal suctioning;

2. Assistance with tube feeding;

3. Monitoring of blood gases;

4. Intermittent positive pressure breathing therapy;

5. Skilled rehabilitative services as described in Rule 59G-4.290, F.A.C.; or

6. Treatment of surgical incisions, unless the surgical incision and the condition which caused it have been stabilized and a plan of care developed.

(l) Not require 24-hour nursing supervision.

(m) Have been determined to be appropriate for admission to the facility by the facility administrator. The administrator shall base his/her decision on:

1. An assessment of the strengths, needs, and preferences of the individual, and the medical examination report required by Section 400.426, F.S., and subsection (2) of this rule;

2. The facility's admission policy, and the services the facility is prepared to provide or arrange for to meet resident needs; and

3. The ability of the facility to meet the uniform fire safety standards for assisted living facilities established under Section 400.441, F.S., and Chapter 4A-40, F.A.C.

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

(2) HEALTH ASSESSMENT.

(a) Within 60 days prior to the residents admission to a facility but no later than 30 days after admission, the individual shall be examined by a physician or advanced registered nurse practitioner who shall provide the administrator with a medical examination report, or a copy of the report, which addresses 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 a communicable disease which is likely to be transmitted to other residents or staff;

7. A statement that in the opinion of the examining physician or ARNP, on the day the examination is conducted, the individual's needs can be met in an assisted living facility; and

8. The date of the examination, and the name, signature, address, phone number, and license number of the examining physician or ARNP. The medical examination may be conducted by a currently licensed physician or ARNP from another state.

(b) Medical examinations conducted up to 30 days after the resident's admission to the facility must be recorded on the Resident Health Assessment, DOEA Form 1823, dated March 1999, which is incorporated by reference. A faxed copy of the completed form is acceptable. A copy of DOEA Form 1823 may be obtained from the DOEA Assisted Living Program. Previous versions of this form completed up to 6 months after (10-17-99) are acceptable.

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

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

(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 400.426, F.S., and this rule.

(f) Any orders for medications, nursing, therapeutic diets, or other services to be provided or supervised by the facility issued by the physician or ARNP conducting the medical examination may be attached to the health assessment. A physician may attach a do-not-resuscitate order for residents who do not wish cardiopulmonary resuscitation to be administered in the case of cardiac or respiratory arrest.

(g) A resident placed on an temporary emergency basis by the Department of Children and Family Services pursuant to Section 415.105 or 415.1051, F.S., shall be exempt from the examination requirements of this subsection for up to 30 days. However, a resident accepted for temporary emergency placement shall 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 a 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 shall make available to potential residents a written statement or statements which includes the following information. A promotional brochure prepared by the facility or a copy of the resident contract form used by the facility which contains all of the required information shall meet this requirement:

1. The facility's residency criteria;
2. The daily, weekly or monthly charge to reside in the facility and the services, supplies, and accommodations provide 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. A statement of facility rules and regulations that residents must follow as described in Rule 58A-5.0182, F.A.C.;
11. If the facility also has an extended congregate care program, the ECC program's residency criteria, and a description of the additional personal, supportive, and nursing services provided by the program, additional costs, and any limitations, if any, on where ECC residents must reside based on the policies and procedures described in Rule 58A-5.030, F.A.C.; and
12. If the facility advertises that it provides special care for persons with Alzheimer's disease or related disorders, a written description of those special services as required under Section 400.4177, F.S.

(b) Prior to or at the time of admission the resident, responsible party, guardian, or attorney in fact, if applicable, shall be provided with the following:

1. A copy of the resident's contract which meets the requirements of Rule 58A-5.025, F.A.C.;
2. A copy of the facility statement described in paragraph (a) 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 Council brochure which includes the telephone number and address of the district council.

(c) Documents required by this subsection shall 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. Criteria for continued residency in a facility holding a standard, limited nursing services, or limited mental health license shall be the same as the criteria for admission, except as follows:

- (a) The resident may be bedridden for up to 7 consecutive days.
- (b) A resident requiring care of a stage 2 pressure sore, may be retained provided that:

1. The facility has a LNS license and services are provided pursuant to a plan of care issued by a physician, or the resident contracts directly with a licensed home health agency or a nurse to provide care;
2. The condition is documented in the resident's record; and
3. If the resident's condition fails to improve within 30 days, the resident shall 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 the services of a licensed hospice which coordinates and ensures the provision of any additional care and services that may be needed;
2. Continued residency is agreeable to the resident and the facility;
3. An interdisciplinary care plan is developed and implemented by a licensed hospice in consultation with the facility. Facility staff may provide any nursing service permitted under the facility's license and total help with the activities of daily living; and

4. Documentation of the requirements of this paragraph is maintained in the resident's file.

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

(e) 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, the resident shall be discharged in accordance with Sections 400.426(8) and 400.428(1), F.S.

Specific Authority 400.407, 400.426, 400.441 FS. Law Implemented 400.402, 400.407, 400.4075, 400.426, 400.441 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.

58A-5.0182 Resident Care Standards.

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

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

(a) Monitor 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 individual.

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

(e) A written record, updated as needed, of any significant changes in the resident's normal appearance or state of health, any illnesses which resulted in medical attention, major incidents, changes in the method of medication administration, or other changes which 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 shall provide an ongoing activities program. The program shall provide diversified individual and group activities in keeping with each resident's needs, abilities, and interests.

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

(c) Scheduled activities shall be available at least 5 days a week for a total of not less than 10 hours per week. Watching television shall not be considered an activity for the purpose of meeting the 10 hours per week of scheduled activities unless the television program is a special one-time event of special interest to residents of the facility. An activities calendar shall 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, this may be counted toward the activity time.

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

(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 for persons with disabilities.

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

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

(5) **NURSING SERVICES.**

(a) Pursuant to Section 400.4255, F.S., the facility may employ or contract with a nurse to:

1. Take or supervise the taking of vital signs;

2. Manage weekly pill-organizers and administer medications as described under 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 464.022, 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 proscribed in Section 400.428, F.S., or a summary provided by the long-term care ombudsman council shall 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 400.428, F.S., the facility shall have a written grievance procedure for receiving and responding to resident complaints, and for 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 address and telephone number for lodging complaints against a facility or facility staff with the district long-term care ombudsman council, the Advocacy Center for Persons with Disabilities, the Human Rights Advocacy Committee and agency area office, shall be posted in full view in a common area accessible to all residents.

(d) The statewide toll-free telephone number of the Florida Abuse Hotline "1(800)96-ABUSE or 1(800)962-2873" shall be posted in full view in a common area accessible to all residents.

(e) The facility shall have written statement of the facility's house rules and procedures which shall be included in the admission package provided pursuant to Rule 58A-5.0181, F.A.C. The rules and procedures shall address the facility's policies with respect to such issues, for example, as resident responsibilities, the facility's alcohol and tobacco policy, medication storage, the delivery of services to residents by third party providers, and other administrative and housekeeping practices, schedules, and requirements.

(f) Residents may not be required to perform any work in the facility without compensation, except that facility rules or the facility contract may include a requirement that residents be responsible for cleaning their own sleeping areas or apartments. If a resident is employed by the facility, the resident shall be compensated, at a minimum, at an hourly wage consistent with the federal minimum wage law.

(g) The facility shall provide residents convenient access to a telephone to facilitate the resident's right to communicate on a private basis. For facilities with a licensed capacity of 17 or more residents in which residents do not have private telephones, there shall be, at a minimum, an accessible telephone in each building where residents reside.

(h) Pursuant to Section 400.441, F.S., the use of physical restraints shall be limited to half-bed rails, and only upon the written order of the resident's physician, who shall review the order biannually, and the consent of the resident or the resident's representative. Any device, including half-bed rails, which the resident chooses to use and can remove or avoid without assistance shall not be considered a physical restraint.

(7) **THIRD PARTY SERVICES.** 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 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 may require the third party to coordinate with the facility regarding the resident's condition and the services being provided. Pursuant to subsection (6), the facility shall provide the resident with the facility's policy regarding the provision of services to residents by non-facility staff.

(8) **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.

Specific Authority 400.402, 400.441 FS. Law Implemented 400.402, 400.4255, 400.4256, 400.426, 400.428, 400.441 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.

58A-5.0185 Medication Practices.

Pursuant to Sections 400.4255 and 400.4256, F.S., and this rule, facilities holding a standard, limited mental health, extended congregate care, or limited nursing services license 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 shall be encouraged and allowed to do so.

(b) If facility staff note deviations which could reasonably be attributed to the improper self-administration of medication, staff shall consult with the resident concerning any problems the resident may be experiencing with the medications, the need to notify the resident's health care provider, or to permit the facility to aid the resident through the use of a pill organizer, provide assistance with self-administration, or administer medications if such services are offered by the facility.

(2) WEEKLY PILL ORGANIZERS.

(a) A nurse may manage a weekly pill organizer for residents who self-administer. A "weekly pill organizer" means a container which is designed to hold solid doses of medication and is divided according to day and time increments not to exceed 7 days.

1. The nurse shall manage the pill organizer in the following manner:

a. Obtain the labeled medication container from the storage area or the resident;

b. 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; and

c. Return the medication container to the storage area or resident.

2. The nurse is responsible for instructing the resident with respect to the proper use of the pill organizer.

(b) If there is a determination that the resident is not taking medications as prescribed after the benefits are explained it shall be noted in the resident's record and the facility shall 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 shall contact the resident's health care provider regarding questions, concerns, or observations relating to the resident's medications. Such communication shall be documented in the resident's record.

(3) ASSISTANCE WITH SELF-ADMINISTRATION.

(a) For facilities which provide assistance with self-administered medication, either: a nurse; or an unlicensed staff member, who is at least 18 years old, trained to assist with self-administered medication in accordance with Rule 58A-5.0191, F.A.C., and able to demonstrate to the administrator the ability to accurately read and interpret a prescription label, must be available to assist residents with self-administered medications in accordance with procedures described in Section 400.4256, F.S.

(b) In order to facilitate assistance with self-administration staff may prepare and make available such items as water, juice, cups, spoons, etc., as needed by residents. Staff may also return unused doses to the medication container. Medication which appears to have been contaminated, shall not be returned to the container.

(c) Staff shall observe the resident take the medication. Any concerns about the resident's reaction to the medication shall be reported to the resident's health care provider and documented in the resident's record.

(d) 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 which coincides with the resident's presence in the facility;

2. The medication container may be given to the resident or 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 weekly pill organizer pursuant to the requirements of subsection (2), and given to the resident or 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;

(4) MEDICATION ADMINISTRATION.

(a) For facilities which provide medication administration a staff member, who is 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 or a significant change in the resident's health or behavior shall be documented in the resident's record and reported immediately to the resident's health care provider.

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

(d) A facility which 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 Part I of Chapter 483, F.S. A copy of the state license or a Certificate of Exemption must be maintained in the facility. A state license or certificate of exemption is not required if the resident performs the test himself/herself or if the test is performed by a third party. Information about laboratory licensing is available from the Clinical Laboratory Licensure Unit, Agency for Health Care Administration, 2727 Mahan Drive, Tallahassee, FL 32308; telephone (850) 487-3109.

(5) MEDICATION RECORDS.

(a) For residents who use a weekly pill organizer managed under subsection (2), the facility shall 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) For residents who receive assistance with self-administration or medication administration, the facility shall maintain a daily up-to-date, medication observation record (MOR) for each resident. A MOR must include the name of the resident and any known allergies the resident may have; the name of the resident's health care provider, the health care provider's telephone number; the name of each medication prescribed, its strength, and directions for use; and a chart for recording each time the medication is taken, any missed dosages, refusals to take medication as prescribed, or medication errors. The MOR must be immediately updated each time the medication is offered or administered.

(c) For medications which serve as chemical restraints, the facility shall, pursuant to Section 400.441, 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, a resident may keep his/her medication, both prescription and over-the-counter, on his/her person both on or off the facility premises; or in his/her room or apartment which must be kept locked when the resident is absent unless the medication is in a secure place within the room or apartment; or in some other secure place which is out of sight of other residents. However, both prescription and over-the-counter medication for a resident shall be centrally stored if:

1. The facility administers the medication;

2. The resident requests central storage;

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 prior to admission as required under Rule 58A-5.0181, F.A.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 shall be refrigerated. Refrigerated medications shall be secured by being kept in a locked container within the refrigerator, by keeping the refrigerator locked, or by keeping the area in which refrigerator is located locked;

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

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

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

(d) When a resident's stay in the facility has ended, the administrator shall 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 shall be considered abandoned and may be disposed of in accordance with paragraph (e).

(e) Medications which have been abandoned or which have expired must be disposed of within 30 days of being determined abandoned or expired and disposition shall 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.

(f) 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) No prescription drug shall be kept by the facility unless it is properly labeled and dispensed in accordance with Chapters 465 and 499, F.S.

(b) Except with respect to the use of weekly pill organizers as described in subsection (2), no person 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 shall 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 shall 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, shall be noted in the medication record, or a revised label shall be obtained from the pharmacist.

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

(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 copy of a signed order is acceptable.

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

(8) OVER THE COUNTER (OTC) MEDICATIONS.

(a) A stock supply of OTC medications for multiple resident use is not permitted in any facility.

(b) Non-prescription over-the-counter drugs, when centrally stored, shall be labeled with the resident's name, and the manufacturer's label with directions for use shall be kept with the medication.

(c) When an over-the-counter medication is prescribed by a health care provider, the medication becomes a prescription medication and shall be managed in accordance with prescription medication under this rule.

Specific Authority 400.4256, 400.441 FS. Law Implemented 400.4255, 400.4256, 400.441 FS. History—New 10-17-99.

58A-5.019 Staffing Standards.

(1) ADMINISTRATORS. Every facility shall 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 adequate care to all residents as required by Part III of Chapter 400, F.S., and this rule chapter.

(a) The administrators shall:

1. Be at least 21 years of age;

2. If employed on or after August 15, 1990, have a high school diploma or general equivalency diploma (G.E.D.), or have been an operator or administrator of a licensed assisted living facility in the State of Florida for at least one of the past 3 years in which the facility has met minimum standards. Administrators employed on or after October 30, 1995, must have a high school diploma or G.E.D.;

3. Be in compliance with Level 2 background screening standards pursuant to Section 400.4174, F.S.; and

4. Complete the core training requirement pursuant to Rule 58A-5.0191, F.A.C.

(b) Administrators may supervise a maximum of either three assisted living facilities or a combination of housing and health care facilities or agencies on a single campus. However, administrators who supervise more than one facility shall appoint in writing a separate "manager" for each facility who must:

1. Be at least 21 years old; and

2. Complete the core training requirement pursuant to Rule 58A-5.0191, F.A.C.

(c) Pursuant to Section 400.4176, F.S., facility owners shall notify both the AHCA area office and AHCA central office within 10 days of a change in a facility administrator using AHCA Form 3180-1006, March 1999, which is incorporated by reference. The agency shall conduct a background check on the new administrator in accordance with Section 400.4174, F.S., and Rule 58A-5.014, F.A.C.

(2) STAFF.

(a) Newly hired staff shall have 30 days to submit a statement from a health care provider, based on an examination conducted within the last six months, that the person does not have any signs or symptoms of a communicable disease including tuberculosis. Freedom from tuberculosis must be documented on an annual basis. A person with a positive tuberculosis test must submit a health care provider's statement that the person does not constitute a risk of communicating tuberculosis. Newly hired staff does not include an employee transferring from one facility to another that is under the same management or ownership, without a break in service. If any staff member is later found to have, or is suspected of having, a communicable disease, he/she shall be removed from duties until the administrator determines that such condition no longer exists.

(b) All staff shall be assigned duties consistent with his/her level of education, training, preparation, and experience. Staff providing services requiring licensing or certification must be appropriately licensed or certified. All staff shall 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) Staff provided by a staffing agency or employed by a business entity contracting to provide direct or indirect services to residents must be qualified for the position in accordance with this rule chapter. The contract between the facility and the staffing agency or contractor shall specifically describe the services the staffing agency or contractor will be providing to residents.

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

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.

(3) BACKGROUND SCREENING.

(a) All staff, hired on or after October 1, 1998, to provide personal services to residents must be screened in accordance with Section 400.4174, F.S., and meet the screening standards of Section 435.03, F.S. A packet containing background screening forms and instructions may be obtained from the AHCA Background Screening Unit, 2727 Mahan Drive, Tallahassee, FL 32308; telephone (850) 410-3400. Within 10 days of the employee's starting work, the facility shall submit to the AHCA central office:

1. A completed Criminal History Check, AHCA Form 3110-0002, June 1998;

2. A signed Florida Abuse Hotline Information System Background Check, AHCA Form 3110-0003, July 1998; and

3. A check to cover the cost of screening.

(b) The results of employee screening conducted by the agency shall be maintained in the employee's personnel file.

(c) Staff with the following documentation in their personnel records shall be considered to have met the required screening requirement:

1. A copy of their current professional license which required Level 1 background screening as a condition of licensing, proof that a criminal history and abuse registry check have been conducted, and an affidavit of current compliance with Section 435.03, F.S.;

2. Proof of continuous employment in an occupation which requires Level 1 screening without a break in employment that exceeds 180 days, and proof that a criminal history and abuse registry check has been conducted within the previous 2 years; or

3. Proof of employment with a corporation or business entity or related entity that owns, operates, or manages more than one facility or agency licensed under Chapter 400, F.S., that conducted Level 1 screening as a condition of initial or continued employment.

(4) STAFFING STANDARDS.

(a) Minimum staffing:

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

Number of 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 residents over 95 add 42 staff hours per week.

2. At least one staff member who has access to facility and resident records in case of an emergency shall be within 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.

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

4. At least one staff member who is trained in First Aid and CPR, as provided under Rule 58A-5.0191, F.A.C., shall be within the facility at all times when residents are in the facility.

5. During periods of temporary absence of the administrator or manager when residents are on the premises, a staff member who is at least 18 years of age, must be designated in writing to be in charge of the facility.

6. Staff whose duties are exclusively building maintenance, clerical, or food preparation shall not be counted toward meeting the minimum staffing hours requirement.

7. The administrator or manager's time may be counted for the purpose of meeting the required staffing hours provided the administrator 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.

8. 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, shall 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 shall maintain a written work schedule which reflects the facility's 24-hour staffing pattern for a given time period.

(d) The facility shall be required to provide staff immediately when the agency determines that the requirements of paragraph (a) are not met. The facility shall also be required to 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 shall consult with the facility administrator and residents regarding any determination that additional staff is required.

1. When additional staff is required above the minimum, the agency shall require the submission, within the time specified in the notification, of a corrective action plan indicating how the increased staffing is to be achieved and resident service needs will be met. The plan shall be reviewed by the agency to determine if the plan will increase the staff to needed levels and 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, modifications may be made in staffing requirements for the facility and the facility shall no longer be required to maintain a plan with the agency.

3. Based on the recommendations of the local authority with jurisdiction over firesafety, the agency may require additional staff when the facility fails to meet the firesafety standards described in, Section 400.441, F.S., and Rule Chapter 4A-40, F.A.C., until such time as the local firesafety authority informs the agency that firesafety requirements are being met.

(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 Rule 58A-5.029, 58A-5.030, or 58A-5.031, F.A.C., respectively.

Specific Authority 400.441, 400.452, 400.4275 F.S. Law Implemented 400.402, 400.404, 400.4174, 400.4176, 400.419, 400.424, 400.4255, 400.426, 400.4275, 400.441, 400.452 F.S. 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.

58A-5.0191 Staff Training Requirements and Training Fees.

(1) ASSISTED LIVING FACILITY CORE TRAINING AND UPDATES.

(a) The assisted living facility core training program established by the department pursuant to Section 400.452, F.S., shall be a minimum of 26 hours plus a competency examination.

(b) Administrators and managers, must complete the assisted living facility core training program within 3 months from the date of becoming a facility administrator or manager. Administrators who attended core training prior to July 1, 1997, and managers who attended 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 Part II of Chapter 468, 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 as provided under Section 400.452, F.S.

(d) Administrators and managers shall, in addition, attend update training for any portion of core training that has been revised as a result of new legislation, rule amendment, or updated materials. Update training received under this paragraph can count towards the 12 hours of continuing education required by Section 400.452, F.S., and this subsection.

(e) A newly hired administrator or manager who previously completed core training and has maintained update and continuing education requirements, shall not be required to retake core training. An administrator or manager who previously completed core training but has not maintained the continuing education requirements and attended update training will be considered a new administrator and must retake core training.

(2) STAFF IN-SERVICE TRAINING. Each facility must provide 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. 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.
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.

(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 must receive a minimum of 1-hour-in-service training within 30 days of employment in safe food handling practices.

(3) **HUMAN IMMUNODEFICIENCY VIRUS/ACQUIRED IMMUNE DEFICIENCY SYNDROME (HIV/AIDS).** Pursuant to Section 381.0035, F.S., all facility employees must complete biennially, a continuing education course on HIV and AIDS. Documentation of compliance must be maintained in accordance with subsection (10) of this rule.

(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 of attendance at First Aid or CPR course offered by an accredited college, university or vocational school; a licensed hospital; the American Red Cross, American Heart Association, or National Safety Council; or if offered by a provider approved by a health-related professional board in the Department of Health, shall satisfy this requirement.

(b) Other courses taken in fulfillment of this requirement must meet the following criteria and be approved and documented in accordance with subsection (10) of this rule:

1. First Aid training must be a minimum of 3 hours and cover disease transmission; care of abrasions, scratches, cuts, and insect bites; care of wounds; control of bleeding; identification and care for injuries to muscles, bones and joints; care of burns; care for hypothermia and heat related illnesses; management of seizures; identification and care for injuries to the head and spine; when to move victims with injuries; and poison control. Persons providing First Aid training must:

a. Hold a current First Aid instructor's card from the American Red Cross, the National Safety Council, or an accredited university; or

b. Be a registered nurse with a minimum of 1 year's experience in long-term or acute care or 1 years' teaching experience in a health-related topic; or emergency medical technician or paramedic currently certified under part III of Chapter 401, F.S., with a minimum of 1 year's teaching experience in a health-related topic.

2. CPR training must be a minimum of 3 hours; include the opportunity for "hands on" learning through practice exercises; and be in accordance with the recommendations of the 1992 Conference on Cardiopulmonary Resuscitation and Emergency Cardiac Care, American Health Association, published in the Guidelines for Cardiopulmonary Resuscitation and Emergency Cardiac Care, I and II. *JAMA*. 1992; 268: 2172-2198, which is incorporated by reference. Persons providing CPR training must hold a current CPR instructor's card from the American Red Cross, the American Heart Association, or National Safety Council.

(c) A nurse shall be considered as having met the training requirement for First Aid. An emergency medical technician or paramedic currently certified under Part III of Chapter 401, F.S., shall be considered as having met the training requirements for both First Aid and CPR.

(5) ASSISTANCE WITH SELF-ADMINISTERED MEDICATION AND MEDICATION MANAGEMENT. Unlicensed persons who will be providing assistance with self-administered medications as described in Rule 58A-5.0185, F.A.C., must receive a minimum of 4 hours of training 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 and provide opportunities for hands-on learning through practice exercises.

(b) The training must be provided by a registered nurse, licensed pharmacist, or department staff who shall issue a training certificate to a trainee who demonstrates an ability to:

1. Understand a prescription label;

2. Provide assistance with self-administration in accordance with Section 400.4256, 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 judgement 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; and

g. Recognize the general signs of adverse reactions to medications and report such reactions.

(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. Completion of the core training program shall satisfy this requirement in the year taken.

(7) EXTENDED CONGREGATE CARE TRAINING.

(a) The administrator and extended congregate care supervisor, if different from the administrator, must complete core training and 6 hours of initial training in extended congregate care provided by the department prior to the facility's receiving its extended congregate care license or within 3 months of beginning employment in the facility as an administrator or ECC supervisor. Completion of core training shall be a prerequisite for this training. Supervisors who attended core training prior to April 20, 1998, shall not be required to take the core training competency test.

(b) The administrator and the extended congregate care supervisor, if different from the administrator, must complete a minimum of 6 hours of continuing education every two years in any of the core topics identified in Section 400.452, F.S.; or 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 extended congregate care program must complete at least 2 hours of in-service training provided by the facility within 6 months of beginning employment in the facility. The training must address extended congregate care concepts and requirements, including statutory and rule requirements, and delivery of personal care and supportive services in an extended congregate care facility.

(8) LIMITED MENTAL HEALTH TRAINING. Pursuant to Section 400.4075, F.S., the administrator and designee, and staff in direct contact with mental health residents in a facility with a limited mental health license must receive a minimum of 6 hours training provided or approved by the Department of Children and Family Services within 6 months of the facility's receiving a limited mental health license or within 6 months of employment in a facility holding a limited mental health license. 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.

(a) Administrators and staff receiving this training do not have to repeat this training should they change employers provided the employee provides a copy of the employee’s training certificate to the employee’s current employer for retention in the facility’s personnel files.

(b) Training received under this subsection may count once for 6 of the 12 hours of continuing education required for administrators and designees under subsection (1) of this rule.

(9) ALZHEIMER’S DISEASE AND RELATED DISORDERS. Facilities which advertise that they provide special care for persons with Alzheimer’s disease and related disorders, or who maintain secured areas as described in Rule 58A-5.023, F.A.C., must ensure that facility staff receive the following training.

(a) Facility staff who have regular contact with or provide direct care to residents with Alzheimer’s disease and related disorders, shall obtain 4 hours of initial training within 3 months of employment. Completion of the core training program after April 20, 1998 shall satisfy this requirement. Facility staff who meet the requirements for Alzheimer’s 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 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) Facility staff who provide direct care to residents with Alzheimer’s disease and related disorders, must obtain an additional 4 hours of training within 9 months of employment. Facility staff who meet the requirements for Alzheimer’s training providers under paragraph (g) of this subsection will be considered as having met this requirement. Such 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.

(c) A detailed description of the subject areas that must be included in a 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,” March 1999, incorporated by reference, available from the DOEA Assisted Living Program.

(d) Direct care staff shall participate in 4 hours of continuing education annually as required under Section 400.4178, F.S. Continuing education received under this paragraph may be used to meet 3 of the 12 hours of continuing education required by Section 400.452, 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.

(e) Facility staff who have only incidental contact with residents with Alzheimer’s disease and related disorders must receive general written information provided by the facility on interacting with such residents, as required under Section 400.4178, F.S., within 3 months of employment. Facility staff who are already employed prior to April 20, 1998 shall have 6 months from that date to receive this information. “Incidental contact” means all staff who neither provide direct care nor are in regular contact with such residents.

(f) Alzheimer’s training provided by the department between January 1 and September 30, 1997 shall meet the training requirements of paragraph (a) of this subsection.

(g) Persons who seek to provide Alzheimer’s training in accordance with this subsection must provide the department with a course curriculum and 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;
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.

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 college degree.

(10) TRAINING PROVIDER AND CURRICULUM APPROVAL; TRAINING DOCUMENTATION.

(a) All persons seeking to provide training which must be approved by the department under this rule shall submit their qualifications to provide training and proposed course curriculums to the department prior to training. Upon receipt of approval from the department, the training provider may identify the training program as “approved by the Florida Department of Elder Affairs” for purposes of meeting the training requirements of Section 400.4178 or 400.452, F.S., and Rule 58A-5.0191, F.A.C. The department shall maintain a list of approved training providers and curriculum. Approval shall be granted for 3 years, whereupon the training provider must re-submit the training program to the department for re-approval.

(b) Approved 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 training program, the number of hours of training, the training provider’s name, the date and location of the course, and a roster of participants.

(c) Training providers must furnish each participant with documentation of attendance which must include the title of training program, the number of hours of training, the participant’s name, date of attendance, location, and the training provider’s name and signature.

(d) The department reserves the right to attend and monitor 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 any training required by this rule shall be documented in the facility’s personnel files which documentation shall include the title of the training program, course content, date of attendance, the training provider’s name and the training provider’s credentials, and number of hours of training. A certificate issued by the department shall provide sufficient documentation of training provided by department staff.

(11) TRAINING FEES. Fees for training provided by the department are as follows:

(a) Assisted Living Facility Core Training:

1. Less than 30% OSS residents	\$160
2. Between 30% and 49% OSS residents	\$120
3. Between 50% and 69% OSS residents	\$80
4. Between 70% and 89% OSS residents	\$40
5. 90% or more OSS residents	no charge

(b) Assisted Living Facility Core Competency Examination:

1. Less than 30% OSS residents	\$50
2. Between 30% and 49% OSS residents	\$40
3. Between 50% and 69% OSS residents	\$25
4. Between 70% and 89% OSS residents	\$15
5. 90% or more OSS residents	no charge

(c) Extended Congregate Care Initial Training, and Core Update and Continuing Education programs of over 4 hours and up to 8 hours:

1. Less than 30% OSS residents	\$50
2. Between 30% and 49% OSS residents	\$40
3. Between 50% and 69% OSS residents	\$30
4. Between 70% and 89% OSS residents	\$20
5. 90% or more OSS residents	no charge

(d) Medication Management, Alzheimer’s Training, and Core Update and Continuing Education programs of 4 hours or less:

1. Less than 30% OSS residents	\$30
2. Between 30% and 49% OSS residents	\$20
3. Between 50% and 69% OSS residents	\$15
4. Between 70% and 89% OSS residents	\$10
5. 90% or more OSS residents	no charge

(e) Training materials, manuals and guides available from the department printed or on diskette/compact disk:

1. Assisted Living Facility Administrator’s Guide	\$35
2. Extended Congregate Care Supplemental Guide	\$10
3. AHCA Survey Guidelines	\$5
4. Assisted Living Facility Law and Rule	\$5

(12) NOTIFICATION OF TRAINING. The department's assisted living trainer in the planning and service area where a facility is located shall notify licensed facilities when training is being offered by the department. Other persons or facilities who wish to receive notification of training provided by the department shall provide a current mailing address annually to the department's assisted living trainer in the planning and service area in which the person is located or where the person or facility would like to receive training. A schedule of department training offered and a list of trainers is available from the DOEA Assisted Living Program.

Specific Authority 400.407, 400.4178, 400.441, 400.452 FS. Law Implemented 400.407, 400.4075, 400.4178, 400.452 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.

58A-5.020 Food Service Standards.

(1) GENERAL RESPONSIBILITIES. When food service is provided by the facility, the administrator or a person designated in writing by the administrator shall:

- (a) Be responsible for total food services and the day-to-day supervision of food services staff.
- (b) Perform his/her duties in a safe and sanitary manner.
- (c) Provide regular meals which meet the nutritional needs of residents, and therapeutic diets as ordered by the resident's health care provider for resident's who require special diets.
- (d) Maintain the in-service and continuing education requirements specified in Rule 58A-5.0191, F.A.C.

(2) DIETARY STANDARDS.

(a) The Tenth Edition Recommended Dietary Allowances established by the Food and Nutrition Board – National Research Council, adjusted for age, sex and activity, shall be the nutritional standard used to evaluate meals. Therapeutic diets shall meet these nutritional standards to the extent possible. A summary of the Tenth Edition Recommended Dietary Allowances, interpreted by a daily food guide, is available from the DOEA Assisted Living Program.

(b) The recommended dietary allowances shall be met by offering a variety of foods adapted to the food habits, preferences and physical abilities of the residents and prepared by 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 recommended dietary allowances to be made available to each resident daily by the facility are as follows:

- 1. Protein: 6 ounces or 2 or more servings;
- 2. Vegetables: 3-5 servings;
- 3. Fruit: 2-4 or more servings;
- 4. Bread and starches: 6-11 or more servings;
- 5. Milk or milk equivalent: 2 servings;
- 6. Fats, oils, and sweets: use sparingly; and
- 7. Water.

(c) All regular and therapeutic menus to be used by the facility shall be reviewed annually by a registered dietitian, licensed dietitian/nutritionist, or by a dietetic technician supervised by a registered dietitian or licensed dietitian/nutritionist, to ensure the meals are commensurate with the nutritional standards established in this rule. Portion sizes shall be indicated on the menus or on a separate sheet. Daily food servings may be divided among three or more meals per day, including snacks, as necessary to accommodate resident needs and preferences. This review shall be documented in the facility files and include the signature of the reviewer, registration or license number, and date reviewed. 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 to be served shall be dated and planned at least one week in advance for both regular and therapeutic diets. Residents shall be encouraged to participate in menu planning. Planned menus shall be conspicuously posted or easily available to residents. Regular and therapeutic menus as served, with substitutions noted before or when the meal is served, shall be kept on file in the facility for 6 months.

(e) Therapeutic diets shall 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 which enable residents to comply with the therapeutic diet shall be identified on the menus developed for use in the facility.

2. The facility shall document a resident's refusal to comply with a therapeutic diet and notification to the resident's health care provider of such refusal. If a resident refuses to follow a therapeutic diet after the benefits are explained, a signed statement from the resident or the resident's responsible party refusing the diet is acceptable documentation of a resident's preferences. In such instances daily documentation is not necessary.

(f) For facilities serving three or more meals a day, no more than 14 hours shall elapse between the end of an evening meal containing a protein food and the beginning of a morning meal. Intervals between meals shall be evenly distributed throughout the day with not less than two hours nor more than six hours between the end of one meal and the beginning of the next. For residents without access to kitchen facilities, snacks shall 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 shall be served attractively at safe and palatable temperatures. All residents shall 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, shall be on hand.

(h) A 3-day supply of non-perishable food, based on the number of weekly meals the facility has contracted with residents to serve, and shall be on hand at all times. The quantity shall be based on the resident census and not on licensed capacity. The supply shall consist of dry or canned foods that do not require refrigeration and shall be kept in sealed containers which are labeled and dated. The food shall be rotated in accordance with shelf life to ensure safety and palatability. Water sufficient for drinking and food preparation shall also be stored, or the facility shall 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 ALF, shall be on file in the facility.

(4) **CATERED FOOD SERVICE.** When food service is catered the facility shall ensure that the catered food 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 shall maintain:

(a) A copy of the current contract between the facility and the food service establishment agreeing to provide food service in the facility which includes the terms of the agreement.

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

Specific Authority 400.441 FS. Law Implemented 400.441 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.

58A-5.021 Fiscal Standards.

(1) **FINANCIAL STABILITY.** The facility shall be administered on a sound financial basis in order to ensure adequate resources to meet resident needs. For the purposes of Section 400.447, F.S., evidence of financial instability includes filed bankruptcy by any owner; issuance of checks returned for insufficient funds; delinquent accounts; nonpayment of local, state, or federal taxes or fees; unpaid utility bills; tax or judgment liens against facility or owners property; failure to meet employee payroll; confirmed complaints to the agency or district long-term care ombudsman council regarding withholding of refunds or funds due residents; failure to maintain liability insurance due to non-payment of premiums; non-payment of rent or mortgage; non-payment for essential services; or adverse court action which could result in the closure or change in ownership or management of the ALF. When there is evidence of financial instability, the agency shall require the facility to submit the following documentation:

(a) Facilities with a capacity of 25 or less:

1. Payment of local, state or federal taxes;

2. Delinquent accounts, if any;

3. Number of checks returned for insufficient funds during the previous 24 months, if any;

4. Receipt of resident rent payment;

5. Amount of cash assets deposited in the facility bank account;

6. Capability of obtaining additional financing, if needed; and

7. A statement of operations or AHCA Form 3180-1002, July 1995, projecting revenues, expenses, taxes, extraordinary items, and other credits and charges for the next 12 months.

(b) Facilities with a capacity of 26 or more, shall provide the documentation described in paragraph (a) above, or submit a current asset and liabilities statement or AHCA Form 3180-1003, January 1998.

(2) **ACCOUNTING PROCEDURES.** The facility shall maintain written business records using generally accepted accounting principles as defined in Rule 61H1-20.007, F.A.C., which accurately reflect the facility's assets and liabilities and income and expenses. Income from residents shall be identified by resident name in supporting documents, and income and expenses from other sources, such as from day care or interest on facility funds, shall be separately identified.

(3) **PERSONAL EFFECTS.**

(a) The facility, upon resident request, may provide for the safekeeping in the facility of up to \$200 in personal funds, and \$500 in personal property. If the resident is expected to be absent from the facility for more than 24 hours, the facility may provide for the safekeeping of more than \$500 in personal property.

(b) Any personal funds shall be kept separately from facility funds and shall be used by residents as they choose.

(c) Any personal property held by the facility, including property held for safekeeping, shall be itemized.

(4) **RESIDENT TRUST FUNDS AND ADVANCED PAYMENTS.**

(a) Funds or other property received by the facility belonging to or due a resident, including the personal funds described in subsection (3), shall 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 shall include income and expense records of the trust fund, including the source and disposition of the funds.

(b) Money deposited or advanced as security for performance of the contract agreement or as advance rent for other than the next immediate rental period shall be kept separate from the funds and property of the facility, and shall be used, or otherwise expended, only for the account of the resident. On facility financial statements, such funds shall be indicated as restricted assets and there shall be a corresponding liability shown.

(5) BANK ACCOUNTS. Resident funds and property in excess of the amount stated in subsection (3), and money deposited or advanced as security for performance of the contract agreement or as advance rent for other than the next immediate rental period shall be held in a Florida banking institution, located if possible in the same community in which the facility is located. The facility shall notify the resident of the name and address of the depository where all funds are being held.

(6) SURETY BONDS. Pursuant to the requirements of Section 400.427(2), F.S.:

(a) A facility whose owner, administrator, or staff, or representative thereof, serves as the representative payee or attorney-in-fact for facility residents, must maintain a surety bond, a copy of which shall be filed with the agency. For corporations which own more than one facility in the state, one surety bond may be purchased to cover the needs of all residents served by the corporation.

1. If serving as representative payee:

a. The minimum bond proceeds must equal twice the average monthly aggregate income or personal funds due to residents, or expendable for their account which are held by the facility; or

b. For residents who receive OSS, the minimum bond proceeds shall equal twice the supplemental security income or social security disability income plus the OSS payments including the personal needs allowance.

2. If holding a power of attorney:

a. The minimum bond proceeds shall equal twice the average monthly income of the resident, plus the value of any resident property under the control of the attorney in fact; or

b. For residents who receive OSS, the minimum bond proceeds shall equal twice the supplemental security income or social security disability income and the OSS payments including the personal allowance, plus the value of any resident property held at the facility.

(b) Upon the annual issuance of a new bond or continuation bond the facility shall file a copy of the bond with the AHCA central office.

(7) RESIDENT ACCOUNTING.

(a) If the facility provides safekeeping for money or property; holds resident money or property in a trust fund; or if the facility owner, administrator, or staff, or representative thereof, acts as a representative payee; the resident or the resident's legal representative shall be provided with a quarterly statement detailing the income and expense records required under subsection (4), and a list of any property held for safekeeping with copies maintained in the resident's file. The facility shall also provide such statement upon the discharge of the resident, and if there is a change in ownership of the facility as provided under Rule 58A-5.014, F.A.C.

(b) If the facility owner, administrator, or staff, or representative thereof, serves as a resident's attorney-in-fact, the resident shall be given, on a monthly basis, a written statement of any transaction made on behalf of the resident.

(c) Within 30 days of receipt of an advance rent or security deposit, the facility shall notify the resident in writing of the manner in which the licensee is holding the advance rent or security deposit.

(8) LIABILITY INSURANCE. Pursuant to Section 400.4275, F.S., facilities shall maintain liability insurance coverage, as defined in Section 624.605, F.S., in force at all times. On the renewal date of the facility's policy or whenever a facility changes policies, the facility shall file documentation of continued coverage with the AHCA central office. Such documentation shall be issued by the insurance company and shall include the name of the facility, the street address of the facility, that it is an assisted living facility, its licensed capacity, and the dates of coverage.

Specific Authority 400.427, 400.4275, 400.441 FS. Law Implemented 400.411, 400.424, 400.427, 400.4275 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.

58A-5.023 Physical Plant Standards.

(1) GENERAL REQUIREMENTS.

(a) The ALF shall be located, designed, equipped, and maintained to promote a residential, non-medical environment, and provide for the safe care and supervision of all residents.

(b) The facility's physical structure, including the interior and exterior walls, floors, roof and ceilings shall be structurally sound and in good repair. Peeling paint or wallpaper, missing ceiling or floor tiles, or torn carpeting shall be repaired or replaced. Windows, doors, plumbing, and appliances shall be functional and in good working order. All furniture and furnishings shall be clean, functional, free-of-odors, and in good repair. Appliances may be disabled for safety reasons provided they are functionally available when needed.

(c) In order to ensure a safe and sanitary environment, the ALF shall be subject to annual inspection by the county health department pursuant to Chapter 64E-12, F.A.C.

(d) Indoor radon testing as mandated by Section 404.056(5), F.S., shall be completed by all facilities.

(2) HEATING AND COOLING.

(a) When outside temperatures are 65 degrees Fahrenheit or below, an indoor temperature of at least 72 degrees Fahrenheit shall be maintained in all areas used by residents during hours when residents are normally awake. During night hours when residents are asleep, an indoor temperature of at least 68 degrees Fahrenheit shall be maintained.

(b) During hours when residents are normally awake, mechanical cooling devices, such as electric fans, must be used in those areas of buildings used by residents when inside temperatures exceed 85 degrees Fahrenheit provided outside temperatures remain below 90 degrees Fahrenheit. No residents shall be in any inside area that exceeds 90 degrees Fahrenheit. However, during daytime hours when outside temperatures exceed 90 degrees, and at night, an indoor temperature of no more than 81 degrees Fahrenheit must be maintained in all areas used by residents.

(c) Residents who have individually controlled thermostats in their bedrooms or apartments shall be permitted to control temperatures in those areas.

(3) COMMON AREAS.

(a) A minimum of 35 square feet of living and dining space per resident, live-in staff, and live-in family member shall be provided except in facilities comprised of apartments. This space shall include living, dining, recreational, or other space designated accessible to all residents, and shall not include bathrooms, corridors, storage space, or screened porches which cannot be adapted for year round use. Facilities with apartments may count the apartment's living space square footage as part of the 35 square footage living and dining space requirement.

1. Those facilities which were licensed as of May 14, 1981, which demonstrate compliance with all other applicable rules shall be granted a 10 percent waiver in the square footage requirement upon request.

2. Those facilities also serving as adult day care centers must provide an additional 35 square feet of living and dining space per adult day care client. Excess floor space in residents' bedrooms or apartments cannot be counted toward meeting the requirement of 35 square feet of living and dining space requirements for adult day care participants. Day care participants may not use residents' bedrooms for resting unless the room is currently vacant.

(b) A room, separate from resident bedrooms, shall be provided where residents may read, engage in socialization or other leisure time activities. Comfortable chairs or sofas shall be provided in this communal area.

(c) The dining area shall be furnished to accommodate communal dining.

(4) BEDROOMS. Residents shall be given the option of choosing their own roommate or roommates if possible.

(a) Resident bedrooms designated for single occupancy shall provide a minimum inside measurement of 80 square feet of usable floor space. Usable floor space does not include closet space or bathrooms.

(b) Resident bedrooms designated for multiple occupancy shall provide a minimum inside measurement of 60 square feet of usable floor space per room occupant.

(c) Resident bedrooms designated for multiple occupancy in facilities newly licensed or renovated 6 months after 10-17-99, shall have a maximum occupancy of two persons. Resident bedrooms designated for multiple occupancy in facilities licensed prior to 10-17-99, shall have a maximum occupancy of four persons.

(d) All resident bedrooms shall open directly into a corridor, common use area or to the outside. A resident must be able to exit his bedroom without having to pass through another bedroom unless the 2 rooms have been licensed as one bedroom.

(e) Pursuant to Section 400.427, F.S., residents shall be given the option of using his/her own belongings as space permits. Each resident bedroom or sleeping area, where furnishings are supplied by the facility shall, at a minimum, be furnished with the following:

1. A clean, comfortable bed with a mattress no less than 36 inches in width and 72 inches in length with the top surface of the mattress a comfortable height to assure easy access by the resident;

2. A closet or wardrobe space for the hanging of clothes;

3. A dresser, chest, or other furniture designed for the storage of personal effects; and

4. A table, bedside lamp or floor lamp, waste basket, and comfortable chair shall be provided if requested.

(f) All resident bedrooms shall be for the exclusive use of residents. Live-in staff and their family members shall be provided with sleeping space separate from the sleeping and congregate space required for residents.

(5) BATHROOMS.

(a) There shall be at least one bathroom with one toilet and sink per six persons, and one bathtub or shower per eight persons. All residents, all live-in staff and family members, and respite care participants must be included when calculating the required number of toilets, sinks, bathtubs and showers. All adult day care participants shall be included when calculating the required number of toilets and sinks.

(b) Each bathroom shall have a door in working order to assure privacy. The entry door to bathrooms with a single toilet shall have a lock which is operable from the inside by the resident with no key needed. A non-locking door shall be permitted if the resident's safety would otherwise be jeopardized.

(c) There shall be non-slip safety devices such as bath mats or peel off stickers in the showers and bathtubs of all facilities. Showers and bathtubs with a non-skid surface require a separate non-skid device only if the surface is worn. Grab bars shall be required in showers and bathtubs. Grab bars, whether portable or permanent, must be securely affixed to the floor or adjoining walls. Facilities newly licensed or renovated 6 months after (10-17-99) must have grab bars next to the commode.

(d) Sole access to a toilet or bathtub or shower shall not be through another resident's bedroom, except in apartments within a facility.

(e) Residents who use portable bedside commodes shall be provided with privacy in their use.

(6) LINENS AND LAUNDRY. Facilities shall make available linens and personal laundry services for residents who require such services. Linens provided by a facility shall be free of tears, stains, and not threadbare.

(7) SECURITY. External boundaries of a facility or a distinct part of a facility, including outside areas, may be secured using egress control or perimeter control devices if the following conditions are met.

(a) The use of the device complies with all life-safety requirements.

(b) Residents residing within a secured area are able to move freely throughout the area, including the resident's bedroom or apartment, bathrooms and all common areas, and have access to outdoor areas on a regular basis and as requested by each resident.

(c) Residents capable of entering and exiting without supervision have keys, codes, or other mechanisms to exit the secured area without requiring staff assistance.

(d) Staff who provide direct care or who have regular contact with residents residing in secured areas complete Level 1 Alzheimer's training as described in Rule 58A-5.0191, F.A.C.

(8) Pursuant to Section 400.441, F.S., facilities with 16 or fewer residents shall not be required to maintain an accessible telephone in each building where residents reside, maintain written staff job descriptions, have awake night staff, or maintain standardized recipes as provided in paragraphs 58A-5.0182(6)(g), 58A-5.019(2)(e), 58A-5-019(4)(a), and 58A-5.020(2)(b), F.A.C., respectively.

Specific Authority 400.441 FS. Law Implemented 400.427, 400.441, 404.056 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.

58A-5.024 Records.

The facility shall maintain the following written records in a form, place and system ordinarily employed in good business practice and accessible to department and agency staff.

(1) FACILITY RECORDS. Facility records include:

(a) The facility's license which shall be 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 place from which the resident was admitted, and if applicable, a notation the resident was admitted with a stage 2 pressure sore; and

2. Date of discharge, the reason for discharge, and the identification of the facility to which the resident is discharged or home address, or if the person is deceased, the date of death. Readmission of a resident to the facility after discharge requires a new entry. Discharge of a resident is not required if the facility is holding a bed for a resident who is out of the facility but intends to return pursuant to Rule 58A-5.025, F.A.C.

(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) An up-to-date record of major incidents occurring within the last 2 years. Such record shall contain a clear description of each incident; the time, place, names of individuals involved; witnesses; nature of injuries; cause if known; action taken; a description of medical or other services provided; by whom such services were provided; and any steps taken to prevent recurrence. These reports shall be made by the individuals having first hand knowledge of the incidents, including paid staff, volunteer staff, emergency and temporary staff, and student interns.

(e) The facility's emergency management plan, with documentation of review and approval by the county emergency management agency, as described under Rule 58A-5.026, F.A.C., which shall be located where immediate access by facility staff is assured.

(f) Documentation of radon testing conducted pursuant to Rule 58A-5.023, F.A.C.;

(g) The facility's liability insurance policy required under Rule 58A-5.021, F.A.C.;

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

(i) The admission package presented to new or prospective residents (less the resident's contract) described in Rule 58A-5.0182, F.A.C.

(j) 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 400.4177, F.S.

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

(l) All food service records required under Rule 58A-5.020, F.A.C., including menus planned and served; county health department inspection reports; and for facilities which contract for catered food services, a copy of the contract for catered services and the caterer's license or certificate to operate.

(m) All firesafety inspection reports issued by the local authority having jurisdiction or the State Fire Marshall pursuant to Section 400.441, F.S., and Rule Chapter 4A-40, F.A.C., issued within the last 2 years.

(n) 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.

(o) Pursuant to Section 400.435, 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.

(p) Additional facility 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.

(2) STAFF RECORDS.

(a) Personnel records for each staff member shall contain, at a minimum, a copy of the original employment application with references furnished and verification of freedom from communicable disease including tuberculosis. In addition as applicable:

1. Documentation of compliance with all staff training required by Rule 58A-5.0191, F.A.C.;
2. Copies of all licenses or certifications for all staff providing services which require licensing or certification;
3. Documentation of compliance with level 1 background screening for all staff subject to screening requirements as required under Rule 58A-5.019, F.A.C.; and
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.

(b) The facility shall not be required to maintain personnel records for staff provided by a licensed staffing agency or staff employed by a business 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 shall maintain the facility's written work schedules and staff time sheets as required under Rule 58A-5.019, F.A.C., for the last 6 months.

(3) RESIDENT RECORDS. Resident records shall 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, responsible party, or other person the resident would like to have notified in case of an emergency, and relationship to resident; and
9. Name, address, and phone number of health care provider, and case manager if applicable.

(b) A copy of the medical examination described in Rule 58A-5.0181, F.A.C.

(c) Any health care provider's orders for medications, nursing services, therapeutic diets, do not resuscitate order, or other services to be provided, supervised, or implemented by the facility that require a health care provider's order.

(d) A signed statement from a resident refusing a therapeutic diet pursuant to Rule 58A-5.020, F.A.C.

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

(f) A weight record which is initiated on admission. Information may be taken from the resident's health assessment. Residents receiving assistance with the activities of daily living shall have their weight recorded semi-annually.

(g) For facilities which 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 which manage a weekly pill organizer, assist with self-administration or administer medications for a resident, 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, or 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 under Section 400.427, F.S.

(k) For any facility which 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 under Section 400.427, F.S.

(l) A copy of Alternate Care Certification for Optional State Supplementation (OSS) Form, CF-ES 1006, March 1998, if the resident is an OSS recipient. The absence of this form shall not be considered a deficiency if the facility can demonstrate that it has made a good faith effort to obtain the required documentation from the Department of Children and Family Services.

(m) Documentation of the appointment of a health care surrogate, 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 under Rule 58A-5.0181, F.A.C.

(o) For apartments, duplexes, quadruplexes, or single family homes that are designated for independent living but which are licensed as assisted living facilities solely for the purpose of delivering personal services to residents in their homes, when and if such services are needed, record keeping on residents who may receive meals but who do not receive any personal, limited nursing, or extended congregate care service shall be limited to the following:

1. A log listing the names of residents participating in this arrangement;
2. The resident demographic data required under this subsection;
3. The medical examination 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.

(p) Except for resident contracts which must be retained for 5 years, all resident records shall 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 shall be provided a copy of their resident records upon departure from the facility.

(q) 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) All records required by this rule chapter shall be available for inspection at all times by staff of the agency, the department, the district long-term care ombudsman council, and the advocacy center for persons with disabilities.

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

(c) Pursuant to Section 400.435, F.S., agency reports which pertain to any agency survey, inspection, monitoring visit, or complaint investigation shall be available to the residents and the public.

1. Requestors shall be required to provide identification prior to review of records.

2. In facilities that are co-located with a licensed nursing home, the inspection of record for all common areas shall be the nursing home inspection report.

(d) The facility shall ensure the availability of records for inspection.

Specific Authority 400.441, 400.4275 FS. Law Implemented 400.407, 400.4075, 400.424, 400.427, 400.4275, 400.428, 400.435, 400.441 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.

58A-5.0241 Adverse Incident Report.

(1) INITIAL ADVERSE INCIDENT REPORT. Each facility licensed under Part III of Chapter 400, F.S., shall submit a preliminary report of each adverse incident by completing an Assisted Living Facility Initial Adverse Incident Report – 1 Day, DOEA Form 3180-1024, dated October 2001, which is incorporated by reference, available through the Agency for Health Care Administration at the address listed below, and mailing the form to the Agency for Health Care Administration, Facility Data Analysis Unit, 2727 Mahan Dr., MS 47, Tallahassee, Florida 32308, telephone (850) 414-6936. Each facility must comply with report timeframe and transmission requirements specified in Section 400.423(3), F.S. The Initial Adverse Incident Report is in addition to and does not replace other reporting requirements specified in Florida Statutes. If an adverse incident has not occurred within the facility, no report is required.

(2) FULL ADVERSE INCIDENT REPORT. Each facility that has submitted a preliminary report by completing DOEA Form 3180-1024 shall submit a full report of each adverse incident by completing an Assisted Living Facility Complete Adverse Incident Report – 15 Day, DOEA Form 3180-1025, dated October 2001, which is incorporated by reference, available through the Agency for Health Care Administration as indicated in subsection (1) above, and mailing the form to the Agency for Health Care Administration, Facility Data Analysis Unit, at the address and telephone number indicated in subsection (1) above. Each facility must comply with report time frame and transmission requirements specified in Section 400.423(4), F.S.

Specific Authority 400.423 FS. Law Implemented 400.423 FS. History—New 1-9-02.

58A-5.0242 Liability Claim Report.

(1) MONTHLY LIABILITY CLAIM REPORT. Each facility licensed under Part III of Chapter 400, F.S., shall report monthly any liability claim filed against the facility by completing an Assisted Living Facility Monthly Liability Claim Information, DOEA Form 3180-1026, dated October 2001, which is incorporated by reference, available through the Agency for Health Care Administration at the address indicated in subsection 58A-5.024(1), F.A.C. Each facility must comply with report time frame and transmission requirements specified in Section 400.423(5), F.S.

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

Specific Authority 400.423 FS. Law Implemented 400.423 FS. History—New 1-9-02.

58A-5.025 Resident Contracts.

(1) Pursuant to Section 400.424, F.S., each resident or the residents legal representative, shall, prior to or at the time of admission, execute a contract with the facility which contains 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 if the facility is licensed to provide such services.

(b) The basic 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 which shall be attached to the contract.

(d) A provision giving at least 30 days written notice prior to any rate increase.

(e) Any rights, duties, or obligations of residents, other than those specified in Section 400.428, 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 which shall conform to Section 400.424(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 shall 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, such as the resident's being comatose, prevents the resident from giving written notification and the resident does not have a responsible party to act in the resident's behalf.

(i) A provision stating whether the organization 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 the facility is licensed to provide, the resident or the resident's representative, or agency acting on the resident's behalf, shall be notified in writing that the resident must make arrangements for transfer to a care setting that has services needed by the resident. In the event the resident has no person to represent him, the facility shall refer the resident to the social service agency for placement. If there is disagreement regarding the appropriateness of placement, provisions as outlined in Section 400.426(8), F.S., shall take effect.

(2) The resident, or the resident's representative, shall be provided with a copy of the 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 shall 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 shall 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 the resident's legal representative and a copy given to the resident or the resident's representative.

Specific Authority 400.424, 400.427, 400.441 FS. Law Implemented 440.424, 400.427, 400.441 FS. History—New 10-17-99.

58A-5.026 Emergency Management.

(1) EMERGENCY PLAN COMPONENTS. Pursuant to Section 400.441, F.S., each facility shall 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. 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 and related dementias, 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 county office of emergency management the number of residents who have been relocated and the place of relocation.

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

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

(a) The county emergency management agency has 60 days in which to review and approve the plan or advise the facility of necessary revisions. Any revisions must be made and the plan resubmitted to the county office of emergency management within 30 days of receiving notification from the county agency that the plan must be revised.

(b) Newly-licensed facility and facilities whose ownership has been transferred, must submit an emergency management plan within 30 days after obtaining a license.

(c) The facility shall review its emergency management plan on an annual basis. Any substantive changes must be submitted to the county emergency management 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 county emergency management agency annually as a signed and dated addendum that is not subject to review and approval.

(d) The county emergency management agency shall be the final administrative authority for emergency management plans prepared by assisted living facilities.

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

(3) **PLAN IMPLEMENTATION.** In the event of an internal or external disaster the facility shall implement the facility's emergency management plan in accordance with Chapter 252, F.S.

(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 shall 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 shall report the evacuation to the local office of emergency management or designee and to the agency within 6 hours of the evacuation order and when the evacuation is complete if the evacuation is not completed within the 6 hour period.

(b) The facility shall 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 resident has been relocated from the facility.

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

(f) The facility shall assist in the relocation of residents and shall cooperate with outreach teams established by the Department of Health or emergency management agency to assist in relocation efforts. Resident needs and preferences shall 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 over capacity and conditions causing it to the agency area office within 48 hours or as soon as practical. As an alternative, the facility may report to the AHCA Assisted Living Unit in Tallahassee at (850) 487-2515. If the facility will continue to be over capacity after the declared emergency ends, the agency shall review requests for excess capacity and may approve the excess capacity on a case-by-case basis.

(d) The facility maintains a log of the additional persons being housed in the facility. The log shall include the individual's name, usual address, and the dates of arrival and departure. The log shall 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.

Specific Authority 400.441 FS. Law Implemented 400.441 FS. History--New 10-17-99.

58A-5.029 Limited Mental Health.

(1) LICENSE APPLICATION.

(a) Any facility intending to admit three or more mental health residents must complete a Limited Mental Health License Application, AHCA Form 3180-1023, September 1998, which is incorporated by reference, available from AHCA, and obtain a limited mental health license from the agency prior to accepting the third mental health resident. The application shall be signed by the applicant, notarized, and include a statement certifying that specified staff have completed or will complete the limited mental health training course described under Rule 58A-5.0191, F.A.C.

(b) Facilities applying for a limited mental health license which have uncorrected deficiencies or violations found during the facility's last survey, complaint investigation, or monitoring visit will be surveyed prior to 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 shall 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 under Rule 58A-5.024, F.A.C., shall be sufficient provided that all mental health residents are clearly identified.

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

(c) Resident records for mental health residents in a facility with a limited mental health license must include the following:

1. Documentation, provided by the Department of Children and Family Services within 30 days of the resident's admission to the facility, that the resident is a mental health resident. Documentation that the resident is receiving social security disability or supplemental security income, optional state supplementation, and any of the following shall meet this requirement.

a. An affirmative statement on the Alternate Care Certification for Optional State Supplementation (OSS) Form, CF-ES 1006, March 1998, that the resident is receiving SSI/SSDI due to a psychiatric 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 to the Department of Children and Family Services.

c. A written statement from the resident's case manager that the resident is an adult with severe and persistent mental illness. The case manager shall consider the following minimum criteria in making that determination.

(i) The resident is eligible for, is receiving, or has received state funded services from the Department of Children and Family Services' Substance Abuse and Mental Health program office within the last 5 years; or

(ii) The resident has been diagnosed as having a 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 shall be conducted by a psychiatrist, clinical psychologist, clinical social worker, or psychiatric nurse, or person supervised by one of these professionals.

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

(i) Completed Alternate Care Certification for Optional State Supplementation (OSS) Form, CF-ES Form 1006, March 1998;

(ii) Discharge Statement from a state mental hospital completed within 90 days prior to admission to the ALF 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 (CSU) will not be considered a new admission and not require a new assessment. However, a break in a resident's continued residency which 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.

a. Each mental health resident and the resident's mental health case manager shall, 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 under paragraph (c), whichever is later, which:

(i) Includes the specific needs of the resident which must be met in order to enable the resident to live in the assisted living facility and the community;

(ii) 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;

(iii) 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;

(iv) 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 which have been provided or arranged for by the resident's mental health care provider or case manager;

(v) 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;

(vi) Is in writing and signed by the mental health resident, the resident's mental health case manager, and the ALF administrator or designee and a copy placed in the resident's file. If the resident refuses to sign the plan, the resident's mental health case manager shall add a statement that the resident was asked but refused to sign the plan;

(vii) Is updated at least annually;

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

(ix) Must be available for inspection to those who have a lawful basis for reviewing the document.

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

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

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 under Section 409.912, F.S.

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

d. May be included in the Community Living Support Plan described in subparagraph 3.

Missing documentation shall not be considered a deficiency if the facility can demonstrate that it has made a good faith effort to obtain the required documentation from the Department of Children and Family Services, or the mental health care provider under contract to provide mental health services to clients of the department.

(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 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 which 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) Ensure that designated staff have completed limited mental health training as required by Rule 58A-5.0191, F.A.C.

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

Specific Authority 400.441 FS. Law Implemented 394.4574, 400.402, 400.4075, 400.426, 400.441, 409.912 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.

58A-5.030 Extended Congregate Care Services.

(1) LICENSING.

(a) Any facility intending to establish an extended congregate care program must meet the license requirements specified in Section 400.407, F.S., and obtain a license from the agency in accordance with Rule 58A-5.014, F.A.C.

(b) Only that portion of a facility which meets the physical requirements of subsection (3) and which is staffed in accordance with subsection (4) shall be considered licensed to provide ECC services to residents which meet the admission and continued residency requirements of this rule.

(2) **EXTENDED CONGREGATE CARE POLICIES.** Policies and procedures established through an extended congregate care program must promote resident independence, dignity, choice, and decision-making. The program shall develop and implement specific written policies and procedures which 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 ECC 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 mechanism 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.

(g) How to involve residents in decisions concerning the resident. The program shall 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 shall be consulted. Choices shall include at a minimum:

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 ECC program 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 shall 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) **PHYSICAL SITE REQUIREMENTS.** Each extended congregate care facility shall provide a homelike physical environment which promotes resident privacy and independence including:

(a) A private room or apartment, or a semi-private room or apartment shared with roommate of the resident's choice. The entry door to the room or apartment shall have a lock which is operable from the inside by the resident with no key needed. The resident shall 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.

(b) A bathroom, with a toilet, sink, and bathtub or shower, which is shared by a maximum of 4 other residents. A centrally located hydro-massage bathtub may substitute for the bathtub or shower in two of the bathrooms. The entry door to the bathroom shall have a lock which is operable from the inside by the resident 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.

(4) STAFFING REQUIREMENTS. Each extended congregate care program shall:

(a) Specify a staff member to serve as the extended congregate care supervisor if the administrator does not perform this function. If the administrator supervises more than one facility, he/she shall appoint a separate ECC supervisor for each facility holding an extended congregate care license.

1. The extended congregate care supervisor shall be responsible for the general supervision of the day-to-day management of an ECC program and ECC resident service planning.

2. The administrator of a facility with an extended congregate care license and the ECC supervisor, if separate from the administrator, must have 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. A baccalaureate degree may be substituted for one year of the required experience. A nursing home administrator licensed under Chapter 468, F.S., shall be considered qualified under this paragraph.

(b) Provide, as staff or by contract, the services of a nurse who shall be available to provide nursing services as needed by ECC residents, participate in the development of resident service plans, and perform monthly nursing assessments.

(c) Provide enough qualified staff to meet the needs of ECC residents in accordance with Rule 58A-5.019, F.A.C., and the amount and type of services established in each resident's service plan.

(d) Regardless of the number of ECC residents, awake staff shall be provided to meet resident scheduled and unscheduled night needs.

(e) In accordance with agency procedures established in Rule 58A-5.019, F.A.C., the agency shall require facilities to immediately provide additional or more qualified staff, when the agency determines that service plans are not being followed or that residents' needs are not being met because of the lack of sufficient or adequately trained staff.

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

(5) ADMISSION AND CONTINUED RESIDENCY.

(a) An individual must meet the following minimum criteria in order to be admitted to an extended congregate care program.

1. Be at least 18 years of age.

2. Be free from signs and symptoms of a communicable disease which is likely to be transmitted to other residents or staff; however, a person who has human immunodeficiency virus (HIV) infection may be admitted to a facility, provided that he 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 person is permitted.

4. Not be a danger to self or others as determined by a health care provider, or mental health practitioner licensed under Chapters 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. Oral or nasopharyngeal suctioning;

b. Nasogastric tube feeding;

c. Monitoring of blood gases;

d. Intermittent positive pressure breathing therapy;

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 which caused it have been stabilized and a plan of care developed.

8. Not require 24-hour nursing supervision.

9. Have been determined to be appropriate for admission to the facility by the facility administrator. The administrator shall base his/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 under 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 under Section 400.441, F.S., and Rule Chapter 4A-40, F.A.C.

(b) Criteria for continued residency in an ECC program shall be the same as the criteria for admission, except as follows:

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 which 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 is developed and implemented by a licensed hospice in consultation with the facility. Facility staff may provide any nursing service within the scope of their license including 24-hour nursing supervision, and total help with the activities of daily living; and

d. Documentation of the requirements of this subparagraph is maintained in the resident's file.

(6) HEALTH ASSESSMENT. Prior to admission to an ECC program, 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 physician or advanced registered nurse practitioner pursuant to Rule 58A-5.0181, F.A.C. A health assessment conducted within 60 days prior to admission to the ECC program shall meet this requirement. Once admitted, a new health assessment must be obtained at least annually.

(7) SERVICE PLANS.

(a) Prior to admission the extended congregate care supervisor shall develop a preliminary service plan which includes an assessment of whether the resident meets the facility's residency criteria, an appraisal of the resident's unique physical and psycho social needs and preferences, and an evaluation of the facility's ability to meet the resident's needs.

(b) Within 14 days of admission the congregate care supervisor shall coordinate the development of a written service plan which takes into account the resident's health assessment obtained pursuant to subsection (6); the resident's unique physical and psycho 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 400.402, F.S., the service plan shall be developed and agreed upon by the resident or the resident's representative or designee, surrogate, guardian, or attorney-in-fact, the facility designee, and shall 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 shall 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.

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

(a) An extended congregate care program 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 shall be encouraged to provide supportive services for residents. The facility shall provide training for family or friends to enable them to provide supportive services in accordance with the resident's service plan.

(b) An extended congregate care program shall 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 staff will be providing such assistance, obtain the resident's or the resident's surrogate, guardian, or attorney-in-fact's informed consent to provide such assistance as required under Section 400.4256, 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) Licensed nursing staff in an extended congregate care program 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, and 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 shall be conducted.

(9) RECORDS.

(a) In addition to the records required under Rule 58A-5.024, F.A.C., an extended congregate care program shall maintain the following:

1. The service plans for each resident receiving extended congregate care services;
2. The nursing progress notes for each resident receiving nursing services;
3. Nursing assessments; and
4. The facility's ECC policies and procedures.

(b) Upon request, a facility shall report to the department such information as necessary to meet the requirements of Section 400.407(3)(b)9., F.S.

(10) DISCHARGE. If the facility and the resident are unable to agree on a service plan, or if the facility is unable to meet the resident's needs as identified in the service plan, or if the resident no longer meets the criteria for continued residency, the resident shall be discharged in accordance with Sections 400.426(8) and 400.428(1), F.S.

Specific Authority 400.407, 400.441 FS. Law Implemented 400.402, 400.407, 400.4255, 400.426, 400.428, 400.441 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.

58A-5.031 Limited Nursing Services.

Any facility intending to provide limited nursing services as described in subsection (1) must meet the license requirements specified in Section 400.407, F.S., and obtain a license from the agency in accordance with Rule 58A-5.014, F.A.C.

(1) NURSING SERVICES. A facility with a limited nursing license may provide the following nursing services in addition to any nursing service permitted under a standard license pursuant to Section 400.4255, F.S.

(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) Replacement of an established self-maintained indwelling urinary catheter, or performance of an intermittent urinary catheterizations.

(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) Care for stage 2 pressure sores. Care for stage 3 or 4 pressure sores are not permitted under this rule.

(k) Caring for casts, braces and splints. Care for head braces, such as a halo is not permitted under this rule.

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

(m) For hospice patients, providing any nursing service permitted within the scope of the nurse's license including 24-hour nursing supervision.

(2) RESIDENT CARE STANDARDS.

(a) A resident receiving limited nursing services in a facility holding only a standard and limited nursing 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 shall be maintained in the resident's file.

(d) Facilities licensed to provide limited nursing services must employ or contract with a nurse(s) who shall be available to provide such services as needed by residents. The facility shall 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 under this license and the type of service provided, shall be maintained.

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

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

Specific Authority 400.402, 400.441 FS. Law Implemented 400.402, 400.407, 400.4255, 400.426, 400.441 FS. History—New 9-30-92, Formerly 10A-5.031, Amended 10-30-95, 10-17-99.

58A-5.033 Administrative Enforcement.

Facility staff shall cooperate with agency personnel during surveys, complaint investigations, monitoring visits, implementation of correction plans, license application and renewal procedures and other activities necessary to ensure compliance with Part III of Chapter 400, F.S., and this rule chapter.

(1) INSPECTIONS.

(a) Pursuant to Section 400.434, F.S., the agency shall conduct a survey, investigation, or appraisal of a facility:

1. Prior to issuance of a license;

2. Prior to biennial renewal of a license;

3. When there is a change of ownership;

4. To monitor facilities licensed to provide limited nursing or extended congregate care services, or who were cited in the previous year for a class I or class II, or 4 or more uncorrected class III violations;

5. Upon receipt of an oral or written complaint of practices that threaten the health, safety, or welfare of residents;

6. If the agency has reason to believe a facility is violating a provision of Part III of Chapter 400, F.S., or this rule chapter;

7. To determine if cited deficiencies have been corrected; and

8. To determine if a facility is operating without a license.

(b) The inspection shall consist of full access to and examination of the facility's physical premises and facility records and accounts, and staff and resident records.

(c) Agency personnel shall interview facility staff and residents in order to determine whether the facility is respecting resident rights and to determine compliance with resident care standards. Interviews shall be conducted privately.

(d) Agency personnel shall respect the private possessions of residents and staff while conducting facility inspections.

(2) 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 council complaints reported to the agency by the LTCOC, or confirmed licensing complaints within the two licensing periods immediately preceding the current renewal date shall be eligible for an abbreviated biennial survey by the agency. 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 shall inform the facility that it is eligible for 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 400.426, F.S., and Rule 58A-5.0181, F.A.C., relating to residency criteria;

2. Section 400.427, F.S., and Rule 58A-5.021, F.A.C., relating to proper management of resident funds and property;

3. Section 400.428, F.S., and Rule 58A-5.0182, F.A.C., relating to respect for resident rights;

4. Section 400.441, F.S., and Rule 58A-5.0182, F.A.C., relating to the provision of supervision, assistance with ADLs, and arrangement for appointments and transportation to appointments;

5. Section 400.4256, F.S., and Rule 58A-5.0185, F.A.C., relating to assistance with or administration of medications;

6. Section 400.441, F.S., and Rule 58A-5.019, F.A.C., relating to the provision of sufficient staffing to meet resident needs;

7. Section 400.441, F.S., and Rule 58A-5.0191, F.A.C., relating to minimum dietary requirements and proper food hygiene;

8. Section 400.4075, F.S., and Rule 58A-5.029, F.A.C., relating to mental health residents' community support living plan;

9. Section 400.407, 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 400.407, 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 license.

(c) The agency will expand the abbreviated survey or conduct a full survey if violations which threaten or potentially threaten the health, safety, or security of residents are identified during the abbreviated survey. The facility shall be informed that 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 4A-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 or safety 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 or safety of a resident.

(3) SURVEY DEFICIENCY.

(a) Prior to or in conjunction with a notice of violation issued pursuant to Section 400.419 and Chapter 120, F.S., the agency shall issue a statement of deficiency for Class I, II, III, and IV and unclassified violations which are observed by agency personnel during any inspection of the facility. The deficiency statement shall be issued within 10 working days of the agency's inspection and shall include:

1. A description of the deficiency;
2. A citation to the statute or rule violated;
3. A time frame for the correction of the deficiency;
4. A request for a plan of correction which shall include time frame for correction of the deficiency; and
5. A description of the administrative sanction that may be imposed if the facility fails to correct the deficiency within the established time frame.

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

(c) The facility's plan of correction must be received by the agency within 10 working days of receipt of the deficiency statement and is subject to approval by the agency.

(4) 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 agency personnel pursuant to an inspection of the facility, the agency shall notify the facility in writing that the facility must employ, on staff or by contract, the services of a pharmacist licensed pursuant to Section 465.0125, F.S., or registered nurse, as determined by the agency.

2. The initial on-site consultant visit shall take place within 7 working days of the identification of a class I or class II deficiency and within 14 working days of the identification of an uncorrected class III deficiency. The facility shall have available for review by the agency a copy of the pharmacist's or registered nurse's license and a signed and dated recommended corrective action plan no later than 10 working days subsequent to the initial on-site consultant visit.

3. The facility shall 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 shall provide the facility with written notification of such determination.

(b) Dietary Deficiencies.

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

2. The initial on-site consultant visit shall take place within 7 working days of the identification of a class I or class II deficiency and within 14 working days of the identification of an uncorrected class III deficiency. The facility shall have available for review by the agency a copy of the dietitian's license or registration card and a signed and dated dietary consultant's recommended corrective action plan no later than 10 working days subsequent to the initial on-site consultant visit.

3. The facility shall provide the agency with, at a minimum, quarterly on-site 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 that such consultant services are no longer required. The agency shall provide the facility with written notification of such determination.

(5) ADMINISTRATIVE SANCTIONS. Administrative fines shall be imposed for class I violations, or class II, III, or IV violations which are not corrected within the time frame set by the agency, and for repeat class II or III violations, as set forth in Section 400.419, F.S.

(a) The agency shall impose a fine for unclassified violations which do not meet the criteria for either a Class I, II, III, or IV violation as provided under Section 400.419, F.S., but which are not trivial or are uncorrected. Unclassified violations include, but are not limited to, the following violations:

1. Exceeding licensed capacity except under emergency circumstances as permitted under Rule 58A-5.026, F.A.C.;
2. Providing services beyond the scope of the license;
3. Violation of a moratorium imposed pursuant to this rule; or
4. A prohibited solicitation by an agent, employee, owner, or representative of the facility as provided in Section 400.42, F.S.

(b) When an administrative fine payment is returned from the applicant's bank for whatever reason, the agency shall add to the amount due a service fee of \$20 or 5 percent of the face amount of the check, whichever is greater, up to a maximum charge of \$200. Proceeds from this fee shall be deposited in the same agency account as the fine.

(c) Facilities shall be notified by the agency of the imposition of sanctions, their right to appeal the imposition of sanctions, the remedies available, and the time limit for requesting such remedies as provided under Chapter 120, F.S., and Part II of Chapter 59-1, F.A.C.

(6) MORATORIUMS.

(a) An immediate moratorium on admissions to the facility shall be placed on the facility when it has been determined that any condition in the facility presents an immediate or direct threat to the health, safety, or welfare of the residents in the facility. The following conditions are examples of threats constituting grounds for a moratorium:

1. Presence of residents with stage 3 or 4 pressure sores;
2. The presence of residents who require 24-hour nursing supervision;
3. Food supply inadequate to provide proper nutrition to residents;
4. Lack of sufficient staff to supervision or meet immediate residents' needs;
5. Notification by the fire marshal or the county health department that conditions exist which pose an imminent threat to residents; or
6. Failure to provide medications as prescribed;

(b) The facility shall be notified of the placing of a moratorium by a telephone call from the appropriate agency area office. The effective date of the moratorium shall be the date a written notification is received by the facility from the area office and which contains the following information:

1. Confirmation of the placement of the moratorium;
2. A detailed explanation of the reasons for placing the moratorium;
3. The criteria which the facility shall be required to meet before the moratorium will be lifted;
4. Directions to contact the appropriate area office when the conditions have been corrected so that an appraisal survey can be conducted; and
5. Advising the facility of their right to request a hearing in accordance with Part II of Chapter 59-1, F.A.C. and Chapter 120, F.S.

(c) Moratoriums shall not be lifted until the deficiencies have been corrected and the agency has determined through an appraisal survey that there is no longer any threat to the residents' health, safety, or welfare. The removal of the moratorium will be communicated by a telephone call and confirmed by written notification.

(d) During the moratorium, no new residents or previously discharged residents shall be admitted to the facility. Residents for whom the facility is holding a bed may return to the facility only after being informed that the facility is under a moratorium and with the prior approval of the local agency office.

(e) When a moratorium is placed on a facility, agency notice of the moratorium shall be posted and visible to the public at the facility until the moratorium is lifted.

(7) TEMPORARY LICENSE. Temporary licenses as defined in subsection 58A-5.0131(37), F.A.C., may be issued by the Agency upon the initiation of any proceeding pursuant to Section 400.414(8), F.S.

Specific Authority 400.415, 400.423, 400.441, 400.442 FS. Law Implemented 400.407, 400.408, 400.411, 400.412, 400.414, 400.415, 400.417, 400.419, 400.42, 400.423, 400.427, 400.428, 400.431, 400.434, 400.441, 400.442 FS. History—New 9-30-92, Formerly 10A-5.033, Amended 10-30-95, 10-17-99, 1-9-02.

58A-5.035 Waivers.

The agency in consultation with the department may waive rules promulgated in this chapter for assisted living facilities that propose to demonstrate and evaluate innovative or cost-effective congregate care alternatives which will enable individuals to age in place.

(1) Application Process.

(a) All waivers shall be applied for and granted by the agency prior to the licensee's implementation of their waiver concept plan.

(b) The written waiver concept plan shall consist of those items outlined in Section 400.441(3)(b), F.S., and shall also include the following information:

1. The facility name, license number, administrator's name and the facility street address.
2. The licensee's anticipated date for implementation.
3. The specific rule references for which a waiver is being requested.
4. The method by which the goals, objectives, and anticipated benefits will be attained and evaluated.
5. The costs of implementing the waiver concept plan.
6. If applying based on cost savings, detailed information regarding the projected cost savings to the licensee or residents.

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

(d) Requests for waiver shall be sent to the AHCA unit.

(2) Upon receipt of a complete waiver concept plan, the agency in consultation with the department shall complete a review of the plan within 90 days. The plan shall be reviewed in relation to the following criteria:

- (a) The plan provides reasonable assurance that the health, safety, or welfare of residents will not be endangered.
- (b) The plan is consistent with Chapter 400, Part III, F.S., and other applicable statutes.
- (c) The goals and objectives of the plan are attainable given the resources and constraints of the situation.

(d) The plan will facilitate aging in place through implementation of a different program approach which enables persons to remain in a familiar living environment, or through utilization of different procedures, services, or physical facilities which provide the same benefits at lower cost or higher benefits at the same cost.

(e) The method by which the goals, objectives, and benefits are achieved is one which could be applied in other facilities with approximately the same results.

(f) In order to be consistent with the goal of aging in place, the plan shall not propose the waiving of any portion of subsection 58A-5.0181(1), F.A.C.

(3) Upon completion of this review, the agency shall approve or disapprove all or part of the plan in writing. This notice shall specifically state the rule or portion thereof being waived and shall be posted with the facility's license.

(4) Report of Findings.

(a) The report of findings shall address and evaluate all those items outlined in paragraph 58A-5.035(1)(b), F.A.C., according to the evaluation procedures set forth in the waiver concept plan.

(b) The report of findings shall be mailed to the agency within 12 months from the date of the approval notice.

(c) If the report of findings is not submitted as required, the agency shall revoke the waiver.

(5) The agency shall review the report of findings submitted by the licensee for the purpose of determining whether the waiver shall be renewed, modified, or revoked.

(a) The agency shall evaluate the waiver concept plan to determine if the licensee has followed the evaluation criteria as outlined therein.

(b) The agency shall review the findings to determine if the plan was an innovative or cost-effective aging in place alternative and if it assured that the health, safety, or welfare of the residents was not endangered. The agency shall also evaluate if the waiver promoted the dignity, individuality, personal strengths, independence, and decision making ability of the residents.

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

(d) The agency shall advise the licensee of its findings within 90 days from the receipt of a complete report of findings.

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

(f) If the agency determines through its review that the waiver was not an innovative or cost-effective alternative for aging in place or that the health, safety, or welfare of the residents were not assured, the waiver shall be revoked. If a waiver is revoked, the licensee shall have a reasonable period of time, not to exceed 6 months, to come into compliance with the rules as promulgated.

(6) The agency shall also review the licensee's report of findings to assess whether statutory or regulatory changes should be pursued to enable other facilities to adopt the same practices.

Specific Authority 400.441 FS. Law Implemented 400.441 FS. History—New 9-30-92, Formerly 10A-5.035, Amended 10-30-95.

CHAPTER 58A-6 ADULT DAY CARE

58A-6.001	Purpose. (Repealed)
58A-6.002	Definitions.
58A-6.003	Licensure Application Procedures.
58A-6.004	Unlicensed Centers.
58A-6.005	Closing of a Center. (Repealed)
58A-6.0051	Change of Owner or Operator; Marketing.
58A-6.006	Governing Authority, Administration and Staffing.
58A-6.007	Participant Care Standards.
58A-6.008	Program Requirements.
58A-6.009	Basic Services.
58A-6.010	Optional Supportive Services.
58A-6.011	Participant and Program Data, Emergency Procedures.
58A-6.012	Fiscal Standards.
58A-6.013	Physical Plant, Sanitary Conditions, Housekeeping Standards and Maintenance.
58A-6.014	Administrative Enforcement.
58A-6.015	Adult Day Care Center Employee Training Requirements.
58A-6.016	Adult Day Care Center Training Provider and Curriculum Approval.

58A-6.002 Definitions.

(1) The following terms are defined in Section 400.551, F.S., and are applicable to this rule chapter: adult day care center or center, agency, basic services, department, multiple or repeated violations, operator, owner, participant, and supportive and optional services.

(2) Additional definitions applicable in this rule chapter are as follows:

(a) "Activities of Daily Living" or "ADL" shall mean the functions or tasks for self-care and shall include: ambulation, bathing, dressing, eating, grooming, transferring, and toileting, self-administration of medications, and other personal hygiene activities.

(b) "Adult" shall mean any person 18 years of age or older.

(c) "Applicant for licensure" shall mean the owner or operator of a center or, if the owner is a business entity, the person (i.e., corporate officer, general or limited partner) acting in behalf of the entity.

(d) "By-laws" shall mean a set of rules adopted by the center for governing its operation. A charter, articles of incorporation, or a statement of policies, procedures and objectives shall be acceptable equivalents.

(e) "Capacity" shall mean the number of participants for which a center has been licensed to provide care at any given time and shall be based upon required net floor space.

(f) "Comprehensive Emergency Management Plan" shall mean a plan developed by the adult day care center describing how the center will prepare for and respond in an emergency, pursuant to subsection 58A-6.011(10), F.A.C.

(g) "Daily Attendance" shall mean the number of participants who, during any one calendar business day, attend the center. This count is not dependent upon, nor does it include, the number of types of services a participant receives, but is an actual, individual unduplicated census count.

(h) "Full-time" shall mean a time period of not less than 35 hours, established as a full working week by the center.

(i) "Functional impairment" means a physical, mental, or social condition or cognitive deficit which restricts an individual's ability to perform the tasks and activities of daily living and which impedes the individual's capability for self-care and independent living without assistance or supervision from others on a recurring or continuous basis for extended periods of time.

(j) "Governing Authority" shall mean the organization, person, or persons designated to assume full legal responsibility for the determination of policy, management, operation, and financial viability of the center.

(k) "Holding Itself Out to the Public" shall mean making any announcement, solicitation, display or advertisement to inform the general public of services provided by the center designed to attract new or additional participants to a center providing adult day care services.

(l) "Major Incident" shall mean any incident for which the Agency, center, employee or other person associated with the center may be liable, or which has resulted in serious injury, death or extensive property damage. Major incidents shall include:

1. Death of a participant from other than natural causes,
2. Threats or occurrences of riots, bombings, or other extreme violence,
3. Disappearance from the center of a participant,
4. Assaults resulting in severe injury or death, sexual assaults or rape, on or by a participant,
5. Property damage from any cause that would interrupt routine operations or disrupt service delivery,
6. Auto accidents with injuries involving participants,
7. Involuntary center closure,
8. Incidents of abuse, neglect, or fraud,

- 9. Employee work conduct which results in a criminal law violation,
- 10. Attempted suicide by a participant while under center supervision.

(m) "Net Floor Space" shall mean the actual climatically controlled occupied area, not including accessory unoccupied areas such as hallways, stairs, closets, storage areas, bathrooms, kitchen or thickness of walls, set aside for the use of the day care center participants.

(n) "Operator" shall mean an individual who has daily administrative charge of an adult day care center and who shall be designated in writing as such by the owner or governing authority.

(o) "Orientation and Training Plan" shall mean a written plan developed and reviewed at least annually and implemented throughout the year which describes a coordinated program for staff training for each service and for orientation of each new staff member on center policies, procedures, assigned duties and responsibilities, and which shall begin no later than the first day of employment.

(p) "Participant File" shall mean a written record, prepared and kept by the center which shall include a care plan; medical and social history or copies of an examination completed by a physician and social history completed by a case manager or social worker; diagnosis; disabilities and limitations; rehabilitation potential, short and long-term goals for rehabilitation, and recommended activities; orders for medication or modified diet; such as supervision of self-administered medication; special needs for health or safety; permitted levels of physical activity; frequency of attendance at the day care center; the frequency with which the participant shall be seen by the participant's physician; and notes as required in this rule chapter.

(q) "Participant Space" shall mean the required net floor space per participant. Maximum participant capacity shall refer to the licensed capacity.

(r) "Personal Supervision of a Participant" shall mean observation of the participant to maintain safety and well-being, including supervision of self-administered medications.

(s) "Preventive Service" shall mean that service which precludes or deters development of disabilities including nutritional counseling, leisure activities, in-facility respite care and social and health activities and services.

(t) "Respite Care" or "Respite" in an adult day care center is defined as a service provided to relieve the caregiver.

(u) "Significant Change" shall mean a deterioration or improvement in ability to carry out activities of daily living; a deterioration in behavior or mood to the point where daily problems arise or relations become problematic or an improvement to the point that these problems are eliminated; or a substantial deterioration in health status or reversal of such condition. Ordinary day-to-day fluctuations in functioning and behavior and acute short-term illness such as a cold are not considered significant changes unless such fluctuations persist to the extent that a trend is established.

(v) "Staff" shall mean any person employed by a center who provides direct or indirect services to the participants and volunteers who are included in the minimum staff ratio.

(w) "Supervision of self-administered medication" shall mean reminding participants to take medication at the time indicated on the prescription; opening or closing medication container(s) or assisting in the opening of prepackaged medication; reading the medication label to participants; observing participants while they take medication; checking the self-administered dosage against the label of the container; reassuring participants that they have obtained and are taking the dosage as prescribed; keeping daily records of when participants received supervision pursuant to this subsection; and immediately reporting apparent adverse effects on a participant's condition to the participant's physician and responsible person. Supervision of self-administered medication shall not be construed to mean that a center shall provide such supervision to participants who are capable of administering their own medication.

(x) "Supervision of staff" shall mean guidance by a qualified person for a staff member's performance of job-related functions and activities, with initial direction and periodic on site inspection of the performance. Supervision of participants shall mean guidance and care necessary for the health, safety and well-being of participants.

(y) "Termination Summary" shall mean a written summary prepared by the center staff at the time of participant termination and documenting services which the participant has received, and which includes any treatment provided, results, reasons for termination and recommendations for the participant's continued care.

(z) "Transportation Services" shall mean the conveying of participants between the center and a designated location, as well as to and from services provided directly or indirectly by the facility. No participant's transportation to and from a designated location and the center shall exceed 1 1/2 hours if the transportation is provided or arranged by the center.

(aa) "Volunteer" shall mean an individual not on the payroll of the adult day care center, whose qualifications shall be determined by the center, for whom a written job description, plan of orientation and training shall be provided and implemented.

Specific Authority 400.562 FS. Law Implemented Ch. 400, Part V FS. History—New 7-8-81, Amended 2-27-84, Formerly 10A-6.02, 10A-6.002, 59A-16.002, Amended 11-9-95, 3-29-98, 10-23-01.

58A-6.003 Licensure Application Procedures.

(1) All adult day care centers, as defined in Section 400.551, F.S., shall be licensed by the Agency for Health Care Administration (AHCA), unless otherwise exempt as provided in Section 400.553, F.S., as listed below:

- (a) Any facility, institution, or other place that is operated by the federal government or any agency thereof.

(b) A licensed assisted living facility, licensed hospital, or licensed nursing home facility which does not hold itself out to the public as an adult day care center.

(2) In accordance with Section 400.554(4), F.S., county-operated or municipally operated centers applying for licensure under this part shall be exempt from the payment of license fees.

(3) The Agency shall grant a biennial license to an applicant center in compliance with the minimum standards set forth in this rule.

(4) A license issued for the operation of a center, unless sooner suspended or revoked, shall expire two years from the date of issuance.

(5) Owners or operators of adult day care centers subject to licensure shall submit a completed application for a license through the Agency for Health Care Administration, 2727 Mahan Dr., Tallahassee, FL 32308. The Licensure Application for Adult Day Care Center, ADCC Form-1, dated December 2003, which is incorporated by reference, may be obtained from the AHCA, Adult Day Care Program, 2727 Mahan Drive, Tallahassee, Florida 32308. The cost of the application package, which includes Chapter 400, Part V, F.S., and this rule chapter, is \$5.00, in accordance with Section 400.562(3), F.S. Attached to the application shall be:

(a) A check or money order made payable to the AHCA for payment of the licensure fee. The biennial licensure fee shall be \$150 per center. Each separate premise shall be licensed as a separate facility.

(b) For centers with seven or more participants, proof of liability insurance coverage of \$100,000 per participant for bodily injury and \$300,000 per occurrence for the center, and proof of liability insurance coverage of \$100,000 per participant for bodily injury and \$300,000 per occurrence for the vehicle if transportation services are provided by the center. For centers with six or less participants, proof of liability insurance coverage of \$50,000 per participant for bodily injury and \$150,000 per occurrence for the center, and proof of liability insurance coverage of \$50,000 per participant for bodily injury and \$150,000 per occurrence for the vehicle(s) if transportation services are provided by the center.

(6) The agency shall notify a licensee electronically or by mail delivery at least 120 days before the expiration date of the center's license. Applications for relicensure must be submitted to the agency at least 90 days before the expiration date of the existing license. Failure to file a timely renewal application will result in a fine of \$75.00 pursuant to Sections 400.5565(1)(b) and 400.557(1), F.S. being assessed against the center.

(7) The AHCA shall schedule and conduct an assessment and evaluation survey of the applicant center, in accordance with this rule chapter.

Specific Authority 400.562 FS. Law Implemented 400.555, 400.5565(1)(b), 400.557(1), 400.562(3), 435.04(5) FS. History--New 7-8-81, Amended 2-27-84, Formerly 10A-6.03, 10A-6.003, 59A-16.003, Amended 11-9-95, 3-29-98, 10-23-01, 2-19-04.

58A-6.004 Unlicensed Centers.

(1) An adult day care center's owner or operator who fails to make application for licensure shall be advised by the AHCA by certified mail that the center is subject to licensure requirements. The letter shall state the basis upon which the AHCA has determined the center to be eligible for licensure and shall include notice that the center is to submit the \$5.00 fee for an application for license packet to AHCA, 2727 Mahan Drive, Tallahassee, FL 32308 within 10 days of receipt of the notice.

(2) The letter shall cite Sections 400.55-564, F.S., that the offering of adult day care center basic services without a valid license is a misdemeanor of the second degree punishable as provided in Section 775.083, F.S. The center shall be granted ten calendar days from the receipt of the certified letter to apply for license in accordance with this chapter. Failure to comply within the allocated ten days shall cause the agency to initiate injunction proceedings in a court of appropriate jurisdiction to terminate the operation of the center.

Specific Authority 400.562 FS. Law Implemented Ch. 400, Part V FS. History--New 7-8-81, Amended 2-27-84, Formerly 10A-6.04, 10A-6.004, 59A-16.004, Amended 11-9-95, 3-29-98.

58A-6.0051 Change of Owner or Operator; Marketing.

(1) The center must notify the Assisted Living Unit, AHCA at 2727 Mahan Drive, Tallahassee, FL 32308-5402, at least 60 days before the date of a change of ownership. The new owner must request and submit a check for \$5.00 for the Licensure Application for Adult Day Care Center, ADCC Form-1, dated December 2003, incorporated by reference in Rule 58A-6.003, F.A.C., dated 2-19-04 and obtainable from Assisted Living Unit, AHCA, 2727 Mahan Drive, Tallahassee, FL 32399-5402, (850) 487-2515, which includes the ADC rules and regulations.

(2) The agency shall issue the change of ownership applicant a conditional license pending confirmation that the applicant meets all standards and requirements for licensure. A conditional license issued for this purpose is limited to 6 months' duration.

(3) The transferor shall, prior to agency approval of a change of ownership, repay or make arrangements to repay any outstanding fine amounts owed the agency pursuant to Section 408.831(2), F.S.

(4) If the center's owner changes operators, the owner or new operator must notify the AHCA within 30 days at the address in subsection (1), and include the completed criminal background check forms.

Specific Authority 400.562, 408.831 FS. Law Implemented 400.559, 408.831(2) FS. History--New 11-9-95, Amended 3-29-98, 2-19-04.

58A-6.006 Governing Authority, Administration and Staffing.

(1) The center shall have a governing authority which shall establish policies in compliance with this rule chapter. Governing Authority, as defined in this rule chapter, may consist of as few as one person, and designation of its membership or composition shall be determined by the owner or operator. The governing authority shall be responsible for ensuring compliance with standards requiring that:

(a) Admission criteria shall limit participant eligibility to adults with functional impairments in need of a protective environment and a program of therapeutic social and health activities and services as defined in this rule chapter, and assure that the admission of each participant shall be made under the supervision of the owner or operator within the confines of specific requirements set forth below:

1. Within forty-five days prior to admission to the center, each person applying to be a participant shall provide a statement signed within said forty-five days by a Florida licensed health care provider under the direct supervision of a physician, physician or a county public health unit documenting freedom from tuberculosis in the communicable form and documenting freedom from signs and symptoms of other communicable disease. Any participant who is diagnosed as having a communicable disease shall be excluded from participation until deemed non-infectious. However, participants who have Human Immunodeficiency Virus (HIV) infection may be admitted to the center, provided that they would otherwise be eligible according to this rule.

2. No participant shall be admitted or retained in a center if the required services from the center are beyond those that the center is licensed to provide.

3. No participant who requires medication during the time spent at the center and who is incapable of self-administration of medications shall be admitted or retained unless there is a person licensed according to Florida law to administer medications who will provide this service. A person licensed according to Florida law includes a physician licensed under Chapters 458 and 459, F.S., an advanced registered nurse practitioner, a dentist, a registered nurse, licensed practical nurse, or a physician's assistant.

(b) Provision is made for a safe physical plant equipped and staffed to maintain the center and services provided as defined in this rule chapter.

(2) The governing authority shall ascertain that the owner or operator or the designated responsible person shall be on the premises during the center's hours of operation.

(3) Each center shall comply with all standards, rules and regulations and shall be under the control of the licensed owner or operator or an agent designated in writing by the owner or operator as having full responsibility and authority for the daily operation of the facility. The owner or operator may supervise more than one center, provided that a qualified, responsible assistant operator, duly appointed in writing, is in charge of each facility.

(4) The center shall employ qualified staff to provide the services, personal assistance and safety measures required by the participants.

(5) The owner or operator shall:

(a) Develop a written job description for each center staff member containing a list of qualifications, duties, responsibilities and accountability required of each staff member.

(b) Establish and maintain a personnel file for each staff to include:

1. Name, home address, phone number;
2. Name, address and phone number of physician(s) to be contacted in case of emergency;
3. Name, address and phone number of person(s) to be contacted in case of emergency;
4. Education and experience;
5. Job assignment and salary;
6. Evaluation of performance at least yearly;
7. Dates of employment and termination;
8. Character references which include former employers and supervisors;

9. A statement from a Florida licensed health care provider under the direct supervision of a physician, physician or a county public health unit that the employee is free from tuberculosis in a communicable form and apparent signs and symptoms of other communicable diseases within 45 days prior to beginning work in the center. In accordance with Section 760.50, F.S., a center shall not exclude a potential employee who is infected with human immunodeficiency virus who would otherwise meet the conditions of employment.

(6) The owner or operator also shall be responsible for the administration of all components of the facility and accountable for the implementation and enforcement of all policies and procedures, standards of care, and program development in accordance with the social, physical and mental capabilities and needs of the participants served.

(7) The owner or operator shall assure that each employee shall:

(a) Maintain personal cleanliness and hygiene;

(b) Refrain from abusive, immoral or other unacceptable conduct such as use of alcohol, illegal use of narcotics or other impairing drugs, and behavior or language which may be injurious to participants;

(c) Any employee who is diagnosed as having a communicable disease after beginning work in the center shall be excluded from working until deemed non-infectious in the work setting.

(8) The owner or operator or designated administrator shall be responsible for enforcing the following minimum personnel staffing for adult day care centers and shall designate substitute staff to be available in emergencies.

(a) A minimum staff ratio of one staff member who provides direct services for every 6 participants shall be present in the center at all times.

(b) No less than 2 staff, one of whom has a certification in an approved first aid course and CPR, shall be present in the center at all times.

(c) At all times staffing shall be maintained to meet the needs of the participants as required by the participant file, including centers which serve persons with Alzheimer's disease and related dementias, persons with physical handicaps, or other special target populations.

(d) The owner or operator may serve in dual capacity as a registered nurse, occupational therapist, physical therapist, speech-language pathologist, or social worker, if licensed as required by Florida law and qualified to provide such services.

(e) The owner or operator may be counted as one of the required staff members provided the owner or operator provides direct services and is included in the work schedule for the center. However, the owner or operator shall not be counted more than once in the staff/participant ratio, calculated on the basis of daily census.

(9) Center staff whose conduct constitutes abuse, neglect, or exploitation of a participant shall immediately be terminated from employment and shall be reported to the Department of Children and Family Services in accordance with Section 415.103, F.S.

(10) No administrator who has been terminated pursuant to the provisions of subsection (9) shall accept employment in an adult day care center and no owner or operator of a center shall knowingly employ any person who has been terminated pursuant to subsection (9).

(11) The governing authority shall establish policies and procedures to facilitate reporting of abuse, neglect or exploitation as defined in Section 415.102, F.S., and in accordance with Section 415.103, F.S., and shall insure that the statewide toll free telephone number of the Central Abuse Registry, accompanied by the words "To Report the Abuse, Neglect, or Exploitation of an Elderly or Disabled Person, Please Call the Toll Free Number 1(800)96-ABUSE" is posted in a prominent place in the center and made clearly visible.

Specific Authority 400.562 FS. Law Implemented Ch. 400, Part V, 760.50 FS. History—New 7-8-81, Amended 2-27-84, Formerly 10A-6.06, 10A-6.006, 59A-16.006, Amended 11-9-95, 3-29-98, 10-23-01.

58A-6.007 Participant Care Standards.

(1) The center shall make a statement or summary statement of policies and procedures for participant care available to participants, to the responsible person, to the public, and to each member of the center staff. The statement or summary statement shall be displayed in a conspicuous place in the facility.

(2) The center staff shall be trained to implement these policies and procedures, as specified in the staff orientation and training plan.

(3) Participant care, policies, and procedures shall ensure that, as a minimum, all participants admitted to the center:

(a) Are informed of provisions for service as evidenced by written acknowledgment from the participant or responsible party prior to or at the time of admission, and given a statement or summary statement of the center policies and procedures, and an explanation of the participant's responsibility to comply with these policies and procedures and to respect the personal rights and private property of other participants;

(b) Are informed, and are given a written statement prior to or at the time of admission and during stay, of services available at the center and for any related charges including those for services not provided free or not covered by sources of third party payments or not covered by the facility's basic per diem rate. This statement shall include the payment, fee, deposit, and refund policy of the center;

(c) Are promptly informed of substantive changes in policies, procedures, services, and rates;

(d) Are informed during the intake process, in writing, of the center's Emergency Management Plan;

(e) Are informed during the intake process of the local emergency management agency's registry of disabled persons who need assistance during evacuations or when in shelters because of physical or mental handicaps and the assistance provided by center staff to register such persons with the local emergency management agency;

(f) Are allowed to retain the services of their personal physician at their own expense or under a health care plan; are assured of services provided, and are offered the opportunity to participate in the planning of their care;

(g) Are assured of remaining free from abuse, neglect, and exploitation as defined in Section 415.102, F.S., and free from chemical and physical restraints. Drugs and other medications shall not be used for punishment, for convenience of center personnel, or in quantities that interfere with a participant's rehabilitation or activities of daily living;

(h) Are assured privacy in treatment of their personal and medical records;

(i) Are treated with consideration, respect, and full recognition of their dignity, individuality, and right to privacy;

(j) Are not required to perform services for the center;

(k) Are permitted to associate and communicate privately with persons of their choice, join with other participants or individuals within or outside the center to work for improvements in participant care, and, upon their request, shall be given assistance in the reading and writing of correspondence;

(l) Are permitted to participate in center activities, and meet with and participate in activities of social, religious and community groups at their discretion;

(m) Are assured of the opportunity to exercise civil and religious liberties, including the right to independent personal decisions. No religious beliefs or practices, or any attendance at religious services, shall be imposed upon any participant. The center shall encourage and assist in the exercise of these rights;

(n) Are not the object of discrimination with respect to participation in activities which include recreation, meals, leisure, other social activities because of age, race, religion, sex, or nationality as defined in Title VI of the Civil Rights Act of 1964, or Americans with Disabilities Act of 1990;

(o) Are not deprived of any constitutional, civil, or legal right solely by reason of admission to the center;

(p) For protection of the participants, are allowed to discharge themselves from the center upon presentation of a request, preferably in writing; or, if the participant is an adjudicated mental incompetent, upon the written consent of his next of kin, or sponsor or guardian or responsible person. However, if assessed by social workers, center staff, responsible persons at the time of intake as confused, the participant shall not be allowed to discharge himself until after the center notifies the participant's guardian, spouse, or person having durable power of attorney;

(q) Are informed of the right to report abusive, neglectful, or exploitative practices.

(4) The center shall not be required to accept or retain any applicant or participant whose behavior and physical limitations are deemed hazardous to the safety of the individual or other participants. Such conditions shall constitute a basis for termination of center participation. Participation may be terminated after reasonable alternatives have failed, upon written notification of the participant, guardian and responsible person. Fifteen calendar days shall be allowed for arranging for alternative services for the participant except in cases of emergency as determined by the governing authority of the center.

Specific Authority 400.562 FS. Law Implemented 252.355, Ch. 400, Part V, 415.103, 760.50 FS. History--New 7-8-81, Amended 2-27-84, Formerly 10A-6.07, 10A-6.007, 59A-16.007, Amended 11-9-95, 3-29-98, 10-23-01.

58A-6.008 Program Requirements.

(1) Each center shall offer a planned program of varied activities and services promoting and maintaining the health of participants and encouraging leisure activities, interaction and communication among participants shall be available on a daily basis at each center in order to enhance the participant's well-being and to maximize individual functioning. Such activities and services shall be available during at least 60 percent of the time the center is open to participants and shall be documented in accordance with subsection (5).

(2) The center shall make available basic services as defined in Chapter 400, Part V, F.S., and may make available other supportive and optional services.

(3) The center shall provide for family consultation or referral service to community agencies, clinics, or physicians when the participant or family is observed to be in need of intensive counseling, health, or mental health services.

(4) There shall be a written description of the range of services to be provided to participants.

(5) A monthly schedule of daily activities shall be maintained on a current basis and displayed in a conspicuous place.

(6) The center shall provide programs and information to increase the participant's awareness of the following factors related to emergency preparedness and emergency management:

(a) The registration process for persons who need assistance during evacuations or when in shelter;

(b) The center's activities and staff available to assist in participant's registration efforts; and

(c) The implications of having a functional limitation in a disaster.

(7) If a participant needs assistance when evacuating or when in an emergency shelter, the center shall register the person with the local emergency management agency as a person with special needs.

Specific Authority 400.562 FS. Law Implemented 252.355, Ch. 400, Part V FS. History--New 7-8-81, Formerly 10A-6.08, 10A-6.008, 59A-16.008, Amended 11-9-95, 3-29-98.

58A-6.009 Basic Services.

(1) To be licensed as an Adult Day Care Center, the following minimum basic services shall be provided:

(a) A protective environment that promotes a non-institutional atmosphere where supervision for the health, safety and well-being of adults who have functional impairments is provided;

(b) A variety of therapeutic, social and health activities and services which help to restore, remediate, or maintain optimal functioning of the participants and to increase interaction with others. Examples of such programs include exercise, health screening, health education, interpersonal communication, and behavior modification;

(c) Leisure-time activities or spectator or participant programs designed to assist participants self-expression, enhance self esteem and provide mental stimulation or social participation. Examples of such programs include opportunities for arts and crafts; daily exercise as can be tolerated by the participant or as prescribed by the participant's physician; development of hobbies; excursions or outings to points of interest to the participants; and other outside activities which may include picnics, cookouts;

(d) Self-care training activities designed to assist functionally impaired adults to restore or maintain the ability to perform activities of daily living;

(e) Rest or period of relaxation or inactivity during the day, that meets the needs of the individual participants;

(f) Nutritional services or food provided or prepared in a central location in a center or by formal agreement with a third party; the activities performed and the resources utilized in the planning, processing, preparing, and serving of meals or snacks; nutritional education; and nutritional counseling; and

(g) In-facility respite care for a functionally impaired adult for the purpose of relieving the primary caregiver.

(2) To be licensed as an Adult Day Care Center, the following nutrition services shall be provided:

(a) Participants attending or in transit to the center for four or more hours daily shall be served a meal which provides at least one-third of the current Recommended Dietary Allowances (RDA), of the Food and Nutrition Board, National Academy of Sciences, National Research Council, adjusted for age, sex and activity. Modified diets, if required, shall meet these nutritional standards to the extent medically possible. Menus approved and provided by Title III-C of the Older Americans Act or the Adult Care Food Program of USDA shall be evidence of meeting the one-third of the RDA requirement.

(b) The dietary allowances shall be met by offering a variety of foods adapted to the food habits, preferences, and physical abilities of the participants and prepared by the use of standardized recipes. A copy of the Recommended Dietary Allowances interpreted by a daily food guide shall be available at no cost by writing to the Department of Elder Affairs, 4040 Esplanade Way, Tallahassee, Florida 32399-7000 or the local county public health unit.

(c) Participants in the center 3 hours before the noon meal or 2 hours after the noon meal must be provided a snack consisting of at least 2 servings from the following four food groups: milk, bread or bread alternate, meat or meat alternate, and vegetables or fruits.

(d) When food service is provided by the center, the following requirements shall be met:

1. The owner or operator or person designated by the owner or operator shall be responsible for the total food service and the day-to-day supervision of food services staff.

2. The designated person shall be responsible for: coordinating food services with other services; developing work assignments; purchasing food; and orienting, training and supervising food service employees.

3. The person designated by the owner or operator as responsible for food service shall perform their duties in a safe and sanitary manner, be knowledgeable of foods that meet regular diet requirements, participate in on-going orientation and training, and participate in biennial in-service provided by a Registered Dietitian.

4. Menus not approved by or meeting the requirements of Title III-C of the Older Americans Act or the Adult Care Food Program of USDA shall be reviewed by a Registered or Florida Licensed Dietitian or a Dietetic Technician supervised by a Registered or Florida Licensed Dietitian to ensure that the menus are commensurate with the current Recommended Dietary Allowances established by the Food and Nutrition Board National Research Council, adjusted for age, sex and activity. Documentation of review of the menus shall be maintained in the center files and shall include the signature and registration or license number of the reviewer and date reviewed. Menus shall be kept on file for one year and shall be accessible to participants and families of participants.

(e) In centers with 17 or more participants, all matters pertaining to food service shall comply with the provisions of Chapter 64E-11, F.A.C.

(f) In centers with 16 or less participants, the owner or operator shall ensure that food preparation is accomplished in a safe and sanitary manner in accordance with Rules 64E-11.002, Definitions; 64E-11.003, Food Supplies; 64E-11.004, Food Protection; 64E-11.005, Personnel; and 64E-13.007, F.A.C. Sanitary Facilities and Controls; and that the following minimum conditions shall be met:

1. The floor surfaces in kitchens, all rooms and areas in which food is stored or prepared and in which utensils are washed or stored shall be of smooth nonabsorbent material and constructed so it can be easily cleaned and shall be washable up to the highest level reached by splash or spray.

2. The walls and ceilings of all food preparation, utensil washing and hand washing rooms or areas shall have smooth, easily cleanable surfaces. Walls shall be washable up to the highest level reached by splash or spray.

3. Hot and cold running water under pressure shall be easily accessible to all rooms where food is prepared or utensils are washed.

4. Hand washing facilities, provided with hot and cold running water, shall be located within the food preparation area in new adult day care facilities and adult day care facilities which are extensively altered.

5. Multi-use equipment and utensils shall be constructed and repaired with materials that are non-toxic, corrosion resistant and nonabsorbent; and shall be smooth, easily cleanable and durable under conditions of normal use; and shall not impart odors, color or taste nor contribute to the contamination of food.

6. All multi-use eating and drinking utensils shall be thoroughly cleansed with hot water and an effective detergent, then shall be rinsed free of such solution, then shall be sanitized as defined in Chapter 64E-11, F.A.C.

7. A three compartment sink or a two compartment sink and a dishwasher with an effective, automatic sanitizing cycle, shall be provided. Machine sanitization may be accomplished by the use of chemical solutions, hot water or hot air. After sanitizing, utensils shall be air dried and properly stored.

8. Refrigeration units and hot food storage units used for the storage of potentially hazardous foods shall be provided with a numerically scaled indicating thermometer accurate to plus or minus 3 degrees Fahrenheit. The thermometer shall be located in the warmest or coldest part of the units and of such type and so situated that the temperature can be easily and readily observed.

9. No live animals or fowl shall be kept or allowed in the kitchen or in the dining areas where food is being served, with the exception of dogs assisting persons with disabilities, which are permitted in the dining area.

(g) If food is catered from outside sources, the catered meals must be prepared in an approved food establishment. No warewashing may take place onsite. Catered food, once delivered to an adult day care facility, must be adequately protected. A copy of the formal contract between licensee and provider containing assurances that the provider will meet all food service and dietary standards should be kept on file

(h) Duty Assignments for person responsible for food service shall be posted in the kitchen area in centers having five or more food service staff.

Specific Authority 400.562 FS. Law Implemented Ch. 400, Part V FS. History--New 7-8-81, Amended 2-27-84, Formerly 10A-6.09, 10A-6.009, 59A-16.009, Amended 11-9-95, 3-29-98.

58A-6.010 Optional Supportive Services.

In addition to the minimum basic services, the center may choose to provide optional supportive services. If provided, such services must be administered by staff qualified to provide such services and within the criteria established by relevant Florida Statutes. The following are examples of such services:

(1) Health or social services such as assessment, counseling, treatment and referral.

(2) Speech therapy provided by or under the supervision of an individual licensed under Chapter 468, Part I, F.S., who has certification of clinical competence from American Speech and Hearing Association, and who has completed the equivalent education requirements and work experience necessary for certification, or who has completed the academic program and is acquiring supervised work experience to qualify for the certificate. Progress notes shall be maintained and must be written in the client's record and signed by the speech therapist as services are provided.

(3) Physical therapy must be provided by, or under the supervision of, an individual who is a graduate of a program of physical therapy approved by both the Council on Medical Education of the American Medical Association and the American Therapy Association, or the equivalent, and licensed by the State. Progress notes shall be maintained and must be written in the client's record and signed by the physical therapist as services are provided.

(4) Occupational therapy as an adjunct to treatment of persons with physical and mental limitations must be provided by, or under the supervision of, an individual who is registered by the American Occupational Therapy Association; or a graduate of a program approved by the Council on Medical Education of the American Medical Association and engaged in the supplemental clinical experience required before registration by the American Occupational Therapy Association. Progress notes shall be written in the client's record and signed by the occupational therapist as services are provided.

(5) Modified diets or diets based on the normal diet and designed to meet the requirements of a given situation such as altering individual nutrients, caloric values, consistency, flavor, techniques of service or preparation, content of specific foods, or a combination of these factors, may be provided as an optional service. When modified diets are provided, a physician's written or documented oral order for each participant receiving a modified diet shall be on file. A menu including types and amounts of food to serve will be on file in the food service area. Diets shall be prepared and served as ordered by the physician.

(6) Adult day health care services for disabled adults or aged persons, provided the center complies with the following:

(a) Make services available for a minimum of 5 hours per day 5 days per week, excluding legal holidays as posted by the facility;

(b) Provide or coordinate, in addition to the basic services specified in Rule 58A-6.009, F.A.C., and optional services pursuant to subsections (1), (2), (3), (4) and (5), the following:

1. Medical screening emphasizing prevention and continuity of care which include routine blood pressure checks or blood glucose diabetic maintenance checks;

2. Nursing services including a configuration of services at different levels of intensity as determined by the nursing assessment, participant care plan, and physician's orders. Services shall include:

a. Health education and counseling including nutritional advice, liaison with the participant's personal physician, and notification of physician as well as the caregiver or family of any changes in the participant's health status;

b. Coordination of the provision of other health services provided outside the center;

c. Supervision of health services provided by program aides.

3. Social services including counseling for participants families and caregivers; compilation of a social history and psychosocial assessment of formal and informal support systems, mental and emotional status, caregiver data, and information on planning for discharge; and referral for persons not appropriate for adult day care.

4. Additional medical services such as dental, ophthalmology, optometric, hearing aid, or laboratory services.

5. Transportation to and from the adult day health care services.

(c) In addition to the minimum staffing required in Chapter 58A-6, F.A.C., provide the following staff:1. The operator shall have a minimum of a Bachelor's degree in a health or social services or related field with one year of supervisory experience in a social or health service setting or hold a registered nurse license with one year of supervisory experience or have 5 years of supervisory experience in a social or health service setting.

2. A registered nurse (RN) or licensed practical nurse (LPN) shall be on site during the primary hours of program operation and on call during all hours the center is open. Arrangements shall be formalized for obtaining the services of an LPN or RN in anticipation of potential absences, planned and unplanned, of the regular nursing staff. All LPNs must be supervised in accordance with Chapter 464, F.S.

3. A social worker with a minimum of a Bachelor's degree in social work, sociology, psychology or nursing or a Bachelor's degree with at least 2 years of experience in a human service field. Services provided by program aides in this service area must be provided under the direct supervision of a social worker or of a case manager who meets or exceeds these standards (e.g., a Master's degree in a related field).

4. An activity director or Recreational Therapist with a Bachelor's degree in a social or health service field or an Associate's degree in a related field plus 2 years of experience. All services provided by program aides must be provided under the direct supervision of the activity director or recreation therapist. The certified recreation therapist may be retained as a consultant.

(d) Documentation of services provided under this section must be in the participants' files. Participant care plans must be reviewed at least quarterly by a multidisciplinary team. At a minimum, narrative nursing, social work, and activity notes must be entered in the participant's record quarterly indicating the participant's progress toward achieving health goals. More frequent notes are required if indicated by the participant's condition.

(e) Centers providing adult day care or adult day health care services to Medicaid clients through a Medicaid waiver must also comply with the following:

1. Be enrolled as a Medicaid provider through the Agency for Health Care Administration's Medicaid office.

2. Have a current authorization for services from an enrolled Medicaid waiver case manager. Case managers in a specific waiver program will authorize ADHC services for enrolled waiver recipients. Those ADHC providers must also be enrolled in the same waiver as those for whom services are authorized.

3. Comply with all provisions of the program and Medicaid waiver requirements.

Specific Authority 400.562 FS. Law Implemented Chs. 400, Part V, 464 FS. History—New 7-8-81, Formerly 10A-6.10, 10A-6.010, 59A-16.010, Amended 11-9-95, 3-29-98.

58A-6.011 Participant and Program Data, Emergency Management Plan.

(1) The owner or operator shall establish, maintain and make available and ready for immediate use to the AHCA, complete and accurate social, medical and fiscal records which fully disclose the extent of services to be maintained by the center and for the periods of time required by State and Federal law.

(2) The Participant File shall include a Participant Data Sheet which shall be completed for each participant within forty-five days prior to or twenty-four hours after admission to the center and which shall include:

(a) Full name, birthday, address;

(b) Date admitted as a participant and services to be provided;

(c) Social security number;

(d) Next of kin, address and phone number;

(e) Guardian or responsible person and address and phone number. Responsible Person shall mean any person who has assumed the responsibility to manage the affairs and protect the rights of any participant of the center. The responsible person is not a legal entity, but may be a caregiver or friend and shall in no case be affiliated with the facility, its operations, or its personnel, unless so ordered by the court;

(f) Medicaid and Medicare identification and other health insurance numbers;

(g) Emergency contact person, home or office address and phone numbers;

(h) Name and telephone number of attending physician to be contacted when there appears to be significant deviation from normal appearance or state of well-being of a participant; and physician's or hospital discharge statement no older than forty-five days indicating prescribed medications and dosage and updated as changes are made by physicians or, until a statement is received, a dated and signed statement by the participant or guardian or responsible person stating that specific medication may be given as ordered by the attending physician; notation of physical and emotional conditions requiring care and of medications administered; diet and mobility restrictions; and a statement that the participant is free from tuberculosis in a communicable form;

(i) The Participant File shall be updated when there is a significant change in the participant, or at least quarterly;

(j) The owner or operator or staff designated by the owner or operator shall review and approve each participant care plan.

(3) The operator shall be responsible for the recording, reporting and availability of participant data or those records required for each center participant and program data or those records required for services made available to and provided to participants by the adult day care center which shall include:

(a) Number of participants enrolled to current date;

(b) Average daily attendance as defined in this rule chapter, based upon attendance through the end of the preceding month;

(c) Hours of travel time current through the previous month, if the transportation, as defined in this rule chapter, is provided or arranged by the center. Hours of daily attendance shall exclude transportation time to and from the center;

(d) Business hours of operation shall be posted in a conspicuous place. Business hours shall mean a time period established by the center, as defined in its policies, and shall be no less than five hours per day on week days of center operation and may include a reduced schedule of weekend hours.

(4) Documentation shall be made of services, medication and special diets provided or administered and shall be kept current in the participant's record. Documentation shall mean a written, signed and dated notation or statement.

(5) A record shall be kept of staff assignments.

(6) If the center accepts fee-for-service participants, there shall be a signed agreement documenting the amount of fee, hours and days of attendance, services to be provided, and frequency of payment. This agreement shall be signed by the center owner or operator, the participant or responsible person, recorded in the participant's record and current through the last payment period.

(7) A written record shall be kept of major incidents affecting participants, employees, volunteers or the program of the center.

(8) Major incidents, as defined in this rule chapter shall be reported to the AHCA immediately. Reports shall be made by the individual having first-hand knowledge of the incident and performing functions and responsibilities as an authorized agency and may include paid, emergency and temporary staff, volunteers and student interns.

(9) In case of emergency, such as acute illness, if family or responsible person cannot be reached, a signed release shall be on file stating that the participant may be sent to the nearest hospital emergency room for treatment.

(10) Pursuant to Section 400.562(1)(g), F.S., as a part of the licensure process, each center shall develop and follow a written Comprehensive Emergency Management Plan for emergency care during an internal or external disaster in accordance with Emergency Management Planning Criteria for Adult Day Care Facilities, dated July 2001, incorporated by reference.

(a) The Emergency Management Plan shall include the following:

1. Provisions for both internal and external disasters and emergencies which could include hurricanes, tornadoes, fires, power outages, floods, bomb threats, acts of terrorism, bio-terrorism, hazardous materials and nuclear disasters.

2. Provisions for care and services to participants during the emergency including pre-disaster or preparation, notification of family members or responsible parties, securing the center, supplies, staffing and emergency equipment.

3. Provisions for care and services to participants who must remain in the center and who must evacuate during the emergency including emergency evacuation transportation.

4. Identification of staff position responsible for implementing each aspect of the plan.

5. Identification of and coordination with designated agencies including Red Cross and the county emergency management office.

6. Post-disaster activities including responding to family inquiries, obtaining necessary emergency medical attention or intervention for participants, transportation and re-entry to the center.

(b) The plan shall be available for immediate access by center staff.

(c) The initial Plan shall be reviewed by the local Emergency Management Agency to ensure compliance with the Emergency Management Planning Criteria for Adult Day Care Facilities, dated July 2001.

(d) The county emergency management agency has 60 days in which to review and determine if the plan satisfies the Emergency Management Planning Criteria or advise the center of necessary revisions. Any revisions must be made and resubmitted to the county emergency management agency within 30 days of receiving notification from the county agency the plan must be revised.

(e) The center shall review and update its Plan on an annual basis. The Plan shall be submitted annually, or more often if needed, to the local Emergency Management Agency.

(11) Fire safety protection shall be governed by the local fire code applicable to day care centers. In areas where no local fire code applies, the standards contained in Chapter 4A-40, F.A.C., Uniform Fire Safety Standards for Assisted Living Facilities, may be used to determine compliance with fire safety standards. In every instance, a center shall comply with local and state standards before a license may be issued.

(a) A fire evacuation drill shall be conducted once a month for the center staff and once every three months for participants;

(b) A written record of each fire drill, indicating the date, hour and general description of each drill, the extent of staff involvement, and the name of the person in charge shall be maintained and available for review;

(c) Evacuation routes shall be posted conspicuously in the center.

Specific Authority 252.36, 400.562 FS. Law Implemented 252.36, 252.365, Ch. 400, Part V FS. History--New 7-8-81, Amended 2-27-84, Formerly 10A-6.11, 10A-6.011, 59A-16.011, Amended 11-9-95, 3-29-98, 10-23-01.

58A-6.012 Fiscal Standards.

(1) The center shall establish and maintain a record of all funds held in trust, if any, and the participant funds shall be kept separate from the center funds. Such funds shall be used or expended only at the request of the participant, the participant's representative, designee, surrogate, guardian, or attorney-in-fact, if applicable.

(2) The center shall furnish at least annually, a complete verified statement of such funds or property to the participant or to the guardian or responsible person, detailing the amount and items received with sources and disposition. Such a report also shall be made at termination or transfer from the center.

(3) Any agency, governmental or private, contributing funds or property to the account of a participant, shall, upon request, be entitled to receive such a statement annually and upon termination or transfer.

(4) Centers shall maintain liability insurance coverage in force at all times. On the renewal date of the center's policy or whenever a center changes policies, the center shall file documentation with the AHCA, ADC Program, 2727 Mahan Drive, Tallahassee, FL 32308. Such documentation shall be issued by the insurance company, shall include the name of the center, dates of coverage and shall meet the criteria of this chapter.

Specific Authority 400.562 FS. Law Implemented Ch. 400, Part V FS. History—New 7-8-81, Formerly 10A-6.12, 10A-6.012, 59A-16.012, Amended 11-9-95, 3-29-98.

58A-6.013 Physical Plant, Sanitary Conditions, Housekeeping Standards and Maintenance.

(1) The center shall provide adequate, safe and sanitary facilities appropriate for the services provided by the center and for the needs of the participants. All centers receiving federal funds shall meet regulations for access to the handicapped in compliance with Americans With Disabilities Act of 1990.

(2) The participant capacity shall be determined by the total amount of net floor space available for all of the participants. Centers licensed prior to the effective date of this rule shall provide 30 square feet of net floor area per participant. For centers initially licensed after November 9, 1995, there shall be not less than 45 square feet of net floor area per participant. Centers shall be required to provide additional floor space for special target populations to accommodate activities required by participant care plans.

(3) Facilities exempt pursuant to Section 400.553, F.S., shall utilize separate space over and above the minimum requirement needed to meet their own licensure certification approval requirements. Only congregate space shall be included in determining minimum space. For purposes of this rule, congregate space shall mean climatically controlled living room, dining room, specialized activity rooms, or other rooms to be commonly used by all participants.

(4) The center shall have available and shall make accessible to the AHCA written policies and procedures for the cleaning of the physical plant and equipment and for its maintenance.

(5) Center facilities shall consist of, but not be limited to, the following:

- (a) Bathrooms;
- (b) Dining areas;
- (c) Kitchen areas;
- (d) Rest areas;
- (e) Recreation and leisure time areas.

(6) A private area shall be available for the provision of first aid, special care and counseling services when provided, or as necessary for other services required by participants. This area shall be appropriately furnished and equipped.

(7) Each participant shall be provided with adequately padded, clean, comfortable seating, with support meeting the needs of each participant. Rest areas shall be provided for at least one-fourth of the participants who are present for four or more hours a day or additional as needed by the participants:

- (a) Bed and mattress, or
- (b) Recliner, or
- (c) Sofa, or
- (d) Chair with back and arm support.

(8) Bathrooms shall be ventilated and have hot and cold running water, supplying hot water at a minimum of 105 degrees Fahrenheit and a maximum of 115 degrees Fahrenheit. Facilities licensed prior to the effective date of this rule are exempt from the requirement for hot running water only.

(9) Recreation and leisure time areas shall be provided where a participant may read, engage in socialization or other leisure time activities. The recreation areas also may be utilized for dining areas.

(10) All areas used by participants shall be suitably lighted and ventilated and maintained at a minimal inside temperature of 72 degrees F. when outside temperatures are 65 degrees F. or below, and all areas used by participants must not exceed 90 degrees F. Mechanical cooling devices must be provided when indoor temperatures exceed 84 degrees F. The facility shall have a thermometer which accurately identifies the temperature.

(11) The kitchen or food preparation areas shall comply with subsection 58A-6.009(2), F.A.C.

(12) Medicines, cleaning supplies, flammables and other potentially poisonous or dangerous supplies shall be stored out of the participant's reach, and in such manner as to ensure the safety of participants.

(a) No prescription drug shall be brought into the center unless it has been legally dispensed and labeled by a licensed pharmacist for the person for whom it is prescribed.

(b) Participants who can self-administer medications may bring and be responsible for their own medications.

(c) Medications shall be centrally stored when:

1. The preservation of medicines requires refrigeration;

2. Medication is determined, and documented by the physician, to be hazardous if kept in the personal possession of the person for whom it was prescribed;

3. Because of physical arrangements and the conditions or habits of other persons in the center, the medications are determined by the operator or physician to be a safety hazard to others.

(d) Centrally stored medications shall be:

1. Kept in a locked cabinet or container; and refrigerated, if required;
2. Accessible only to the authorized staff responsible for distribution of medication;
3. Located in an area free from dampness and abnormal temperatures.

(e) Each container of medication shall be labeled according to state law, and shall include the name of the person for whom it is prescribed, the name of the drug, and instructions for use.

(f) No person other than the dispensing pharmacist shall:

1. Alter the prescription label;
2. Transfer medication from one storage container to another.

(g) Prescription medications which are not taken with the person upon discharge shall be destroyed by the center operator or designee in the presence of one other staff member. Both shall verify in the participant's record, listing the prescription number, the name of the pharmacy, the drug name, strength and quantity destroyed and the date destroyed. Such records shall be maintained by the center for at least three years.

(h) There shall be a staff person available at all times who has access to and is responsible for distribution of centrally stored medications.

(i) The container of centrally stored medication shall be given to the person for whom it is prescribed, at the time indicated by the prescription, for the participant to take as prescribed.

(j) In no instance shall a medication prescribed for one person be taken by any other person.

(k) In no instance shall medication, be administered by a person other than one licensed, according to Florida law, to administer medication including a physician, a dentist, a nurse, or a physician's assistant.

(13) Centers that provide their own laundry services shall have a sufficient area and the appropriate equipment for the laundry to be processed by the center.

(14) Furniture to be used by participants shall be sturdy, clean, comfortable and designed for participant use.

(15) Every center shall be maintained for the comfort and safety of the participant. Centers providing their own maintenance shall have an effective written maintenance plan which will assure preventive maintenance as well as immediate attention to and correction of hazardous or potentially hazardous conditions. The plan shall provide for:

(a) Keeping the building in good repair and free of hazards such as cracks in floors, walls, or ceiling; warped or loose boards, tile, linoleum, handrails or railings, broken window panes, and any similar hazards.

(b) Keeping all heating, air conditioning, electrical, mechanical, water supply, fire protection and sewage disposal systems in a safe and functioning condition. Electrical wiring cords and appliances shall be maintained in a safe condition. Emergency generators, where existing, shall be tested monthly.

(c) Keeping all plumbing fixtures in good repair, properly functioning and satisfactorily provided with protection to prevent contamination from entering the water supply.

(d) Painting the interior and exterior of the building as needed to keep it reasonably attractive. Loose, cracked or peeling wallpaper or paint shall be promptly replaced or repaired to provide a satisfactory finish.

(e) Keeping all furniture and furnishings clean and in good repair.

(f) Keeping the grounds and buildings in a safe, sanitary and presentable condition. Grounds and buildings shall be kept free from refuse, litter, and insect and rodent breeding areas.

(16) A space use change that increases or decreases the center's participant capacity shall not be made without prior approval from the AHCA central office, which shall ensure that such space use change would not place a center out of compliance with standards contained in this chapter.

Specific Authority 400.562 FS. Law Implemented Ch. 400, Part V FS. History--New 7-8-81, Amended 2-27-84, Formerly 10A-6.13, 10A-6.013, 59A-16.013, Amended 11-9-95, 3-29-98.

58A-6.014 Administrative Enforcement.

(1) Deficiencies.

(a) The agency shall conduct on-site surveys of centers for the purpose of determining compliance with Chapter 400, Part V, F.S., and this rule chapter, and specifically the following surveys:

1. Initial licensure survey;
2. Biennial license renewal survey;
3. Follow-up survey;
4. Complaint investigation;
5. Special survey; and
6. Change of ownership survey.

(b) The agency shall issue licensure deficiency statements in accordance with the provisions of Section 400.5565, F.S., for deficiencies that are observed by agency personnel at any inspection of the center.

1. Major deficiencies shall constitute conditions affecting the health, safety, and well-being of participants. The licensure deficiency statement for a major deficiency shall state a time period for correction of the deficiency. The time period established by the agency shall be based on the severity of the threat to health, safety, and well-being and on the nature of the actions necessary to correct the deficiency. The time period for correction of major deficiencies considered to be life-threatening shall not exceed 48 hours.

2. Minor deficiencies, not affecting the health, safety, and well-being of participants, shall be noted and a reasonable and fair period of time, not to exceed 60 days, shall be granted for the correction and elimination of the deficiencies.

3. Unclassified deficiencies shall include the following:

a. Exceeding licensed capacity.

b. Providing services beyond the scope of the license.

c. Failure to correct a violation by the date set by the agency which therefore is a separate violation for each day such failure continues unless the center has an agency approved extension or has exercised the right to request a hearing under Chapter 120, F.S.

d. Continued operation of an unlicensed center exceeding 10 days after notification by the agency.

e. Failure to adequately maintain and provide access to required records.

(c) The center shall be responsible for informing the agency when deficiencies are corrected. The agency shall schedule and conduct reinspection visits with appropriate survey representation to assure compliance.

(d) The agency shall impose a fine for deficiencies in an amount not to exceed \$500.00 for each survey deficiency and not to exceed \$5,000.00 in the aggregate per survey.

(e) Administrative fines shall be imposed for deficiencies which are not corrected within the time frame set by the agency in its written notification and for multiple or repeated violations, as defined in Section 400.551(5), F.S.

(f) If a center appeals an agency action under this section, and the fine is upheld, the violator shall pay the fine plus interest of 12% per annum for each day that the fine remains unpaid after the day set by the agency.

(2) License denial, suspension, and revocation.

(a) A license shall not be granted to:

1. An applicant whose center has a major deficiency which remains uncorrected after the date set by the agency pursuant to paragraph 58A-6.014(1)(b), F.A.C.;

2. An applicant whose center has multiple and repeated violations which remain uncorrected after the date set by the agency pursuant to paragraph 58A-6.014(1)(b), F.A.C.;

3. Any person who has been convicted of a felony which would affect performance of duties and responsibilities in the operation of an adult day care center;

4. Any person who is under 18 years of age.

(b) Applicants denied a license shall be notified by certified mail and shall be given the specific authority for the denial.

(3) If a center has had no conditional licenses issued due to survey deficiencies within the 2 licensure periods immediately preceding the current renewal date, or if a center has had no confirmed complaints within the licensure period immediately preceding the inspection, the AHCA area office shall perform an abbreviated biennial inspection. However, the AHCA must conduct a full inspection if the center has a major deficiency identified during the abbreviated survey.

Specific Authority 400.562 FS. Law Implemented Ch. 400, Part V FS. History—New 11-9-95, Amended 3-29-98.

58A-6.015 Adult Day Care Center Employee Training Requirements.

(1) Each adult day care center licensed under Part V of Chapter 400, Florida Statutes, shall provide that adult day care center employees receive the following training.

(a) Completion of the required initial one hour of training after June 30, 2004, shall satisfy the requirement referenced in subsection 400.5571(1)(b), F.S. Initial one-hour training shall address the following subject areas:

1. Understanding Alzheimer's Disease and Related Disorders;

2. Characteristics of Alzheimer's Disease and Related Disorders; and

3. Communicating with participants with Alzheimer's Disease or Related Disorders.

(b) Completion of the required three hours of training after June 30, 2004, shall satisfy the requirement referenced in subsection 400.5571(1)(c), F.S. The three hours of training must address the following subject areas as they apply to Alzheimer's Disease and Related Disorders:

1. Behavior management;

2. Assistance with activities of daily life to promote the patient's independence;

3. Activities for participants;

4. Stress management for the care giver;

5. Family issues;

6. Participant environment; and

7. Ethical issues.

(c) A detailed description of the subject areas that shall be included in a 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 Adult Day Care Center Participants with Alzheimer's Disease or Related Disorders, September 2003, incorporated by reference, available from the Department of Elder Affairs, 4040 Esplanade Way, Tallahassee, Florida 32399-7000.

(d) Persons who seek to provide Alzheimer's Disease or Related Disorders training in accordance with this subsection shall provide the Department of Elder Affairs or its designee documentation that they hold a Bachelor's degree in a health-care, human service, or gerontology related field from an accredited college or university or hold a license as a registered nurse, and:

1. Possess teaching or training experience as an educator of care givers for persons with Alzheimer's Disease or Related Disorders; or

2. Have one year of practical experience in a program providing care to persons with Alzheimer's Disease or Related Disorders; or

3. Have completed a specialized training program in Alzheimer's Disease or Related Disorders from a university or an accredited health care or human service or gerontology continuing education provider.

(e) With reference to requirements in paragraph (d), years of teaching experience or training as an educator of care givers for persons with Alzheimer's Disease or Related Disorders may substitute on a year-by-year basis for the required Bachelor's degree. A Master's degree from an accredited college or university in a subject related to health-care, human service, or gerontology can substitute for the teaching or training experience referenced in paragraph (d).

(2) An adult day care center employee who has successfully completed training and continuing education consistent with the requirements of Section 400.4178, F.S., or completed training consistent with the requirements of Section 400.1755 or 400.6045, F.S., shall be considered as having met the training requirements of this rule.

(3) All training required by this rule and Section 400.5571, F.S., must be completed only once for each applicable employee.

Specific Authority 400.5571(1) FS. Law Implemented 400.5571(1) FS. History--New 1-1-04.

58A-6.016 Adult Day Care Center Training Provider and Curriculum Approval.

(1) Persons seeking approval as an Alzheimer's Disease or Related Disorders training provider shall complete DOEA form ADC/ADRD-001, Application for Alzheimer's Disease or Related Disorders Training Provider Certification, dated September 2003, which is incorporated by reference and available at the Department of Elder Affairs, 4040 Esplanade Way, Tallahassee, Florida 32399-7000. Persons seeking to obtain approval of the Alzheimer's Disease or Related Disorder curriculum shall complete DOEA form ADC/ADRD-002, Application for Alzheimer's Disease or Related Disorders Training Three-Year Curriculum Certification, dated September 2003, which is incorporated by reference and available at the Department of Elder Affairs, 4040 Esplanade Way, Tallahassee, Florida 32399-7000. Approval must be obtained from the Department or its designee for the training provider and the training curriculum prior to commencing training activities. Approval of the training curriculum shall be granted for 3 years, whereupon the training curriculum must be re-submitted to the Department or its designee for re-approval.

(2) Upon receipt of the training provider's or the training curriculum application, the Department or its designee shall respond in writing within 30 calendar days in one of the following three ways:

(a) Notify the applicant that the application is approved or not approved. If an application is not approved, the Department or its designee shall respond in writing indicating the reasons for not approving the application and information or documentation needed for approval;

(b) Request additional information from the applicant in order to make a determination. Requested information omitted from an application shall be filed with the Department or its designee within 90 days of the Department's or its designee's request for omitted information, or the application shall be deemed incomplete, and shall be withdrawn from further consideration. Once the additional information has been received by the Department or its designee the Department or its designee will have 30 calendar days to make a determination; or

(c) Notify the applicant that an additional 30 calendar days is needed to review the application and make a determination. Upon notice of approval from the Department or its designee, the applicant may be identified as an approved training provider or as having an approved training curriculum as indicated by the Department or its designee. The Department or its designee shall maintain a list of approved training providers and training curriculum and provide a list of approved training providers to all interested parties upon request.

(3) 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 training and the Department of Elder Affairs curriculum approval number, the number of hours of training, the participant's name, dates of attendance, location, the training provider's name and the Department of Elder Affairs training provider's 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 400.5571, F.S., and Rule 58A-6.015, F.A.C.

(4) The Department reserves the right to attend and monitor training courses, review records and course materials approved pursuant to this rule, and revoke approved training provider status on the basis of non-adherence to approved curricula, the provider's failure to maintain required training credentials, or circumstances in which the provider is found to knowingly disseminate any false or misleading information.

(5) Training providers and training curricula which are approved consistent with the provisions of Sections 400.4178, 400.1755 and 400.6045, F.S., shall be considered as having met the requirements of this rule.

(6) Certificates or copies of certificates of any training required by this rule shall be documented in the facility's personnel files.

Specific Authority 400.5571(1) FS. Law Implemented 400.5571(1) FS. History—New 1-1-04.

CHAPTER 58A-14 ADULT FAMILY-CARE HOMES

58A-14.001	Purpose. (Repealed)
58A-14.002	Definitions.
58A-14.003	License Application, Renewal and Conditional Licenses.
58A-14.004	License.
58A-14.005	Licensure Denial or Revocation. (Repealed)
58A-14.006	Existing Adult Family-Care Homes. (Repealed)
58A-14.0061	Admission and Appropriateness of Placement.
58A-14.0062	Residency Agreement.
58A-14.007	Standards and Practices for Care and Services.
58A-14.008	Staff Qualifications, Responsibilities and Training.
58A-14.0085	Records.
58A-14.009	Physical Site Standards.
58A-14.0091	Fire Safety Standards and Emergency Procedures.
58A-14.010	Administrative Enforcement.

58A-14.002 Definitions.

The following terms or phrases are defined in Section 400.618, F.S., and are applicable to this rule chapter: activities of daily living (ADLs), adult family-care home (AFCH), agency (AHCA), aging in place, appropriate placement, chemical restraint, department, disabled adult, frail elder, personal services or personal care, provider, relative, relief person, and resident. Additional definitions applicable to this rule chapter are as follows:

(1) “Adult household member” means the provider and any person, 18 years of age or older, who is permanently or regularly present in the home for more than a few hours at a time. A person shall be considered a household member even though the person has another residence if the person is in a position of familial authority or perceived familial authority.

(2) “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, newsletters, magazines, business cards, flyers, brochures or other medium used for the purpose of attracting potential residents to an adult family-care home. A complimentary listing of the licensed AFCH’s name, address, and telephone number in the telephone directory shall not be considered advertising.

(3) “Applicant” means an individual applying for an adult family-care home license.

(4) “Assistance with activities of daily living” means individual assistance with the following:

(a) Ambulation – Providing physical support to enable the resident to move about and maintain balance and providing necessary assistance with walking, stair climbing, or pushing a wheelchair.

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

(c) Dressing – helping the resident to choose, to put on, and to remove appropriate clothing.

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

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

(f) Toileting – Reminding the resident about using the toilet, assisting the resident to the bathroom, helping to undress, positioning on the commode, and helping with related personal hygiene, including changing adult briefs

(5) “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.

(6) “Capacity” means the number of residents for which an adult family-care home has been licensed to provide room, board and personal care.

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

(8) “Deficiency” means an instance of non-compliance with the requirements of Part VII, Chapter 400, F.S., and this rule chapter.

(9) “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.

(10) “Long-Term Care Ombudsman Council” (LTCOC) means the State Long-Term Care Ombudsman Council or the district long-term care ombudsman councils established under Part I of Chapter 400, F.S.

(11) “Moratorium” means that an AFCH may not admit a new resident from the date the moratorium is imposed by AHCA until the date the moratorium is lifted by AHCA.

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

(13) "Nursing progress notes" or "nursing notes" 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. The notes shall be completed by the nurse who delivered the service and shall describe the date, type, scope, amount, duration, and outcome of services that are rendered; the general status of the resident's health; any deviations; any contact with the resident's health care provider; and contains the signature and credential initials of the person rendering the service.

(14) "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.

(15) "Physical restraint" means a device or item which physically limits, restricts, or deprives an individual of movement or mobility. The term also includes any device which was not specifically manufactured as a restraint but which has been altered, arranged or otherwise used for this purpose or otherwise modified to be used as a physical restraint. The term does not include an item or device which the individual can remove or avoid without assistance.

(16) "Pressure sore" means a breakdown in skin integrity caused by immobility and prolonged pressure. The 4 stages of pressure sores can be identified as follows: stage 1 – a nonblanching macule that may appear red or violet; stage 2 – a skin breakdown as far as the dermis; stage 3 – a skin breakdown into the subcutaneous tissue; stage 4 – penetrate bone, muscle or the joint.

(17) "Resident's representative" means a guardian, attorney-in-fact, next-of-kin, health care surrogate or proxy, or other responsible party with authority to make decisions on behalf of a resident.

(18) "Staff" means any person employed by or under contract to the provider, who directly or indirectly provides services to residents. Staff does not include persons contracting directly with a resident.

(19) "Twenty-four-hour nursing supervision" means nursing services that are ordered by a physician for a person whose condition requires physician supervision and continued monitoring of vital signs and physical status. Such services must be medically complex enough to require the constant supervision, assessment, planning, or intervention by a nurse; be performed by or under the direct supervision of a nurse; required on a daily basis; and consistent with the nature and severity of the resident's condition or the disease state or stage.

Specific Authority 400.619, 400.621 FS. Law Implemented 400.618, 400.619, 400.6196, 400.621, 400.628 FS. History–New 5-14-86, Amended 2-2-95, Formerly 10A-14.002, Amended 9-19-96, 6-6-99.

58A-14.003 License Application, Renewal and Conditional Licenses.

(1) LICENSE APPLICATION.

(a) Any individual desiring to obtain an initial license to operate an adult family care home shall file an Adult Family Care Home License application, AHCA Form 3180-1022, August 2003, which is incorporated by reference, with the Assisted Living Unit, Agency for Health Care Administration, 2727 Mahan Drive, Tallahassee, Florida 32308-5402, Phone (850) 487-2515. The completed application must be signed by the applicant, notarized, and be accompanied by the following:

1. A completed Request for Level 1 Criminal History Screening, AHCA Form 3110-0002, January 2003, which is incorporated by reference, available from the Background Screening Unit, Agency for Health Care Administration, 2727 Mahan Drive, Tallahassee, Florida 32308-5402, Phone (850) 410-3400, for the applicant, each relief person, all adult household members, and all staff. The completed form will not be required for persons who:

a. Submit proof of Level I screening conducted within the last 5 years pursuant to a facility or professional license requirement of AHCA or the Department of Health and provide a copy of the professional or facility license, and an affidavit of current compliance with the background screening requirements of Section 435.03, F.S.; or

b. Have been continuously employed in the same type of occupation for which the person is seeking employment without a break in service that exceeds 180 days, and can provide proof that level 1 background screening has been conducted within the last 2 years. Proof of compliance must be obtained by the applicant from the person's previous employer and not from the person.

2. A description and explanation of any exclusions, permanent suspensions, or involuntary terminations of the applicant from the Medicaid or Medicare programs or any other governmental health care or health insurance program.

3. If located in an area zoned single-family or multi-family, a community residential home certification form signed by the Department of Children and Family Services' district community residential home coordinator. If not located in an area zoned single-family or multi-family, Local Zoning Form, AHCA Form 3180-1021, September 1996, which is incorporated by reference, or a letter from the local zoning authority, signed by the county zoning official, which states that the applicant is in compliance with local zoning ordinances.

4. Documentation of a satisfactory sanitation inspection as required under Rule 58A-14.009, F.A.C.

5. Documentation of a satisfactory fire safety inspection as required under Rule 58A-14.0091, F.A.C.

6. Income and Expense Statement, AHCA Form 3180-1017, September 1996, which is incorporated by reference.

7. Documentation of radon testing as mandated by Section 404.056(5), F.S.

8. Written assurance affirming that the applicant is aware of and will complete the training requirements as described in Rule 58A-14.008, F.A.C.

9. A licensing fee of \$100.

(b) During the licensing process, the agency shall:

1. Conduct Level 1 background screening on the applicant, all adult household members, each relief person, and all staff pursuant to Chapter 435, F.S.

2. Conduct an on-site survey of the prospective AFCH. During the survey the agency shall:

a. Visually inspect all rooms and outside grounds of the home and determine that the home meets the minimum physical site requirements of Rule 58A-14.009, F.A.C., prior to resident occupancy; and

b. Determine the capacity of the home.

(c) Any deficiencies identified during the survey must be corrected prior to issuance of a license.

(d) If, at the time of applying for an initial license, an applicant is already providing room, board, and one or more personal services to persons who will be considered residents, the provider must be in compliance with all admission and care standards applicable to residents under this rule chapter upon licensing.

(2) LICENSE RENEWAL.

(a) Application forms for license renewal, AHCA Form 3180-1022, shall be provided electronically or by mail delivery annually by the agency to the AFCH provider at least 120 days prior to the expiration of the current license. The provider shall mail or hand-deliver the license renewal application to the agency a minimum of 90 days prior to the expiration date appearing on the currently held license.

(b) In addition to AHCA Form 3180-1022, all applicants for license renewal shall provide the following:

1. Documentation of a satisfactory sanitation inspection as required under Rule 58A-14.009, F.A.C. Documentation of a satisfactory sanitation inspection shall be provided at the time of the agency's annual survey.

2. Documentation of a satisfactory fire safety inspection as required under Rule 58A-14.0091, F.A.C. Documentation of a satisfactory fire safety inspection shall be provided at the time of the agency's annual survey.

3. A licensing fee of \$100, or \$150 if not filed 90 days prior to the license expiration date.

(c) During the license renewal process the agency shall:

1. Conduct an on-site survey of the AFCH. During the survey the agency shall:

a. Visually inspect all rooms and the outside grounds of the home and determine that the home meets the minimum physical site requirements of Rule 58A-14.009, F.A.C. The agency shall refer all safety and sanitation concerns to the county health department, and all fire safety concerns to the local authority with jurisdiction over fire safety.

b. Verify that residents meet the criteria for continued residency in an AFCH as provided in Rule 58A-14.0061, F.A.C., and that resident services are being provided in accordance with the standards established in Rule 58A-14.007, F.A.C.

c. Verify that the AFCH provider is complying with all facility, staff, and resident records requirements as provided in Rule 58A-14.0085, F.A.C.

2. Obtain information from the district Long-Term Care Ombudsman Council regarding complaints and whether complaints have been successfully resolved.

3. Request documentation of adequate financial resources to operate the adult family-care home in compliance with health and safety standards if the financial stability of the AFCH is in question. Indicators of financial instability are: filing of bankruptcy; issuance of checks returned for insufficient funds; non-payment of rent, mortgage, utilities, staff wages or salaries, or taxes; confirmed complaints to the agency or ombudsman council regarding withholding of funds or refunds due residents; and any other information which indicates the inability of the home to meet its financial responsibilities in a full and timely manner.

(3) CONDITIONAL LICENSE. The agency may issue a conditional license to an AFCH if, at the time of license renewal the facility is found to have uncorrected violations.

(a) The issuance of a conditional license shall be contingent upon agency approval of a written plan of correction which includes corrective steps that will be taken to eliminate the deficiencies and a timetable for correction of the deficiencies by the expiration date of the conditional license.

(b) A conditional license shall be issued by the agency only for that time period necessary to comply with applicable licensing standards and complete license renewal procedures, but not to exceed 6 months.

(c) A conditional license shall be revoked and license denied if subsequent follow-up surveys by the agency indicate that necessary progress has not been made toward compliance with applicable licensing standards.

(d) The issuance of a conditional license does not change the annual license expiration date.

(4) LICENSE DENIAL. Applicants and providers denied a license shall be notified by the agency of their right to appeal the denial of the license, the remedies available, and the time limit for requesting such remedies as provided under Part II of Rule Chapter 59-1, F.A.C. and Chapter 120, F.S.

Specific Authority 400.619, 400.621 FS. Law Implemented 400.619, 400.621 FS. History—New 5-14-86, Amended 2-2-95, Formerly 10A-14.003, Amended 9-19-96, 3-25-98, 6-6-99, 1-1-04.

58A-14.004 License.

(1) Except for conditional licenses, all AFCH licenses shall be effective for 1 year from the date of issuance.

(2) A license to operate an AFCH is not transferable and is valid only for the provider named, the capacity stated, and the premises described on the license.

(3) The licensed provider shall give at least 60 days written notice to the AHCA Assisted Living Unit, each residents or resident's representative, and case managers of OSS recipients, of any intent to voluntarily close or sell a currently licensed AFCH.

(4) LICENSED CAPACITY.

(a) There shall be no more than 5 residents in any AFCH. The number of residents permitted in a particular adult family-care home will be determined by the agency based upon the fire safety standards provided under Rule 58A-14.0091, F.A.C., and compliance with physical site standards established in Rule 58A-14.009, F.A.C. An increase in capacity may not be made without the prior approval of the agency.

(b) Adult relatives of the provider who require personal care and supervision and reside in the home for more than 30 days shall be considered residents only for the purposes of determining capacity.

(c) Except homes licensed as adult foster homes or adult congregate living facilities prior to January 1, 1994, each AFCH must designate at least one licensed space for a resident receiving optional state supplementation.

(5) ADVERTISING. A licensed adult family-care home may advertise accommodations and services consistent with its license.

(a) The AFCH may not be listed in the yellow pages of the telephone directory under the heading of "nursing home" or "assisted living facility."

(b) An advertisement for an adult family-care home must include the term "adult family-care home" and the home's license number.

(c) Pursuant to Section 400.6255, F.S., an AFCH claiming to provide special care for persons with Alzheimer's disease or other related dementias must disclose those special care services in any advertisement or in a separate document, which shall be distributed to the public upon request.

Specific Authority 400.619, 400.621 FS. Law Implemented 400.619, 400.621, 400.6255 FS. History—New 5-14-86, Amended 2-2-95, Formerly 10A-14.004, Amended 9-19-96, 6-6-99.

58A-14.0061 Admission and Appropriateness of Placement.

(1) ADMISSION. In order to be admitted as a resident to an AFCH an individual must:

(a) Be at least 18 years of age.

(b) Be free from apparent signs and symptoms of any communicable disease, including tuberculosis which is likely to be transmitted to others as documented in the Health Assessment Form described in subsection (2). A person who has HIV infection may be admitted provided the person would otherwise be eligible for admission according to this rule.

(c) Be capable of self-preservation in an emergency situation involving the immediate evacuation of the AFCH, with assistance with ambulation if needed.

(d) Be able to perform, with supervision or assistance, activities of daily living.

(e) Not be a danger to self or others as determined by a health care provider or licensed mental health professional.

(f) Not require licensed professional mental health treatment on a 24-hour a day basis.

(g) Not have special dietary needs which cannot be met by the provider.

(h) Not be bedridden.

(i) Not have stage 3 or 4 pressure sores. An individual with a stage 2 pressure sore may be admitted only if the individual is under the care of a nurse pursuant to a plan of care issued by a health care provider. Such nursing service must be provided in accordance with Rule 58A-14.007, F.A.C.

(j) Not require the use of chemical or physical restraints.

(k) Not require 24-hour nursing supervision.

(l) Not have personal care and nursing needs which exceed the capability of the provider to meet or arrange for such needs. The provider is responsible for determining the appropriate placement of the individual in the AFCH.

(2) HEALTH ASSESSMENT. Prior to admission to an AFCH, the individual must be examined by a health care provider using the Resident Health Assessment, DOEA Form 1110, August 2003, which is incorporated by reference, and available from the Department of Elder Affairs, 4040 Esplanade Way, Tallahassee, FL 32399-7000. Previous versions of this form completed up to 6 months after the effective date of this rule, January 1 2004 are acceptable.

(3) HOUSE RULES AND COMPLAINT PROCEDURES. Prior to, or at the time of admission a copy of the AFCH house rules, the Resident's Bill of Rights established under Section 400.628, F.S., the name, address, and telephone number of the district long-term care ombudsman council and the Florida Abuse Hotline, and the procedure for making complaints to the ombudsman council and the abuse registry must be provided to the resident or the resident's representative.

(4) TEMPORARY EMERGENCY SERVICES. Residents placed on an emergency basis by the Department of Children and Family Services pursuant to Section 415.105 or 415.1051, F.S., must meet the admission requirements of this rule. However, only residents whose stay in the home exceeds 30 days, must be examined by a health care provider under subsection (2) of this section, and covered by a residency agreement under Rule 58A-14.0062, F.A.C. A temporary emergency placement may not be made if the placement causes the home to exceed licensed capacity.

(5) CONTINUED RESIDENCY.

(a) The criteria for continued residency shall be the same as the criteria for admission, except that:

1. A resident may be bedridden for up to 7 days for a temporary illness.
2. A resident with a stage 2 pressure sore must be discharged if the pressure sore has not healed within 30 days or has not been reduced to stage 1.
3. A terminally ill resident who no longer meets the criteria for continued residency may continue to reside in the AFCH if:
 - a. The resident qualifies for, is admitted to, and consents to the services of a licensed hospice which coordinates the additional care that may be needed;
 - b. Continued residency is agreeable to the resident and the provider; and
 - c. An interdisciplinary care plan is developed and implemented by the hospice in consultation with the provider.
- (b) If the resident no longer qualifies for continued residency, the provider shall assist the resident to obtain another placement.
- (c) The provider is responsible for monitoring the continued appropriateness of placement of a resident in the home.
- (6) DISCHARGE.
 - (a) Except as provided in paragraph (b), a resident shall not be discharged without 30 days' written notice stating reasons for the move or transfer. The notice shall be delivered to the resident or the resident's representative.
 - (b) Residents shall only be moved or transferred without the required 30 day notice for the following reasons:
 1. The resident's health requires an immediate relocation to a facility which provides a more skilled level of care as certified by a physician;
 2. The resident's behavior poses an imminent danger to self or others, significantly interferes with the orderly operation of the home, or is continually offensive to other residents; or
 3. The AFCH has had its license denied, revoked, or has voluntarily surrendered its license.

Specific Authority 400.621 FS. Law Implemented 400.618, 400.621, 400.625, 400.628 FS. History--New 2-2-95, Formerly 10A-14.0061, Amended 9-19-96, 6-6-99, 1-1-04.

58A-14.0062 Residency Agreement.

- (1) Pursuant to Section 400.625, F.S., before or at the time of admission to an AFCH, the provider and the resident or the resident's representative must sign a residency agreement, a copy of which must be given to the provider and kept on file for 5 years after the expiration of the agreement, and a copy of which must be provided to the resident or resident's representative.
- (2) The residency agreement must include the following:
 - (a) A list specifically setting forth the services and accommodations to be provided by the adult family-care home.
 - (b) The daily, weekly or monthly rates and charges and a statement that the provider will provide at least 30 days' notice before implementing a rate increase.
 - (c) A bed hold policy for residents who request the provider to reserve a bed for the resident if the resident's health requires the resident to be admitted to a nursing home or hospital. The bed hold policy shall permit the provider to continue to charge the agreed upon daily rate until the provider receives notification in writing from the resident or the resident's representative that the resident will not be returning to the home. However, the provider may not continue to charge the agreed upon daily rate if the resident's physical or mental condition prevents the resident from giving notification and the resident does not have a representative to act on the resident's behalf.
 - (d) The AFCH's discharge policy.
 - (e) A refund policy to apply when a resident is discharged or dies. The refund policy shall state that:
 1. The resident or resident's representative is entitled to a prorated refund for any unused portion of payment beyond the discharge or termination date. The refund will be less the cost of documented damages to the AFCH caused by the resident before the discharge or termination date that results from circumstances other than normal use. Claims against the refund must be in writing and must include a list of all documented damages and costs.
 2. The refund must occur within 45 days of receipt of a written notice of discharge, or 15 days after the resident has moved or dies, whichever occurs later.
 - (3) An addendum shall be added to the residency agreement to reflect any additional services and charges not covered by the original agreement. Such addendum must be dated and signed by the provider and the resident or resident's representative and a copy given to the provider and the resident or the resident's representative.

Specific Authority 400.625 FS. Law Implemented 400.625, 400.628 FS. History--New 6-6-99.

58A-14.007 Standards and Practices for Care and Services.

The adult family-care home provider shall ensure the provision of the following in accordance with Part VII of Chapter 400, F.S., this rule chapter, and the residency agreement:

(1) PERSONAL SERVICES.

- (a) Assistance with or supervision of the activities of daily living as required by the resident. For a diabetic resident or a resident who has documented circulatory problems, cutting toenails shall only be permitted with written approval of the health care provider.
- (b) Assistance with or supervision of the self-administration of medication, or medication administration.
 1. Residents who are capable of self-administering their medications shall be encouraged and allowed to do so.

2. For residents who require supervision or assistance with self-administration, the provider or staff shall, as needed:

- a. Remind residents when to take medications;
- b. Prepare and make available such items as water, juice, cups, spoons, or other items necessary for administering the medication;
- c. Obtain the medication and provide it to the resident;
- d. Observe the resident take the medication and verify that the resident is taking the dosage as prescribed; and
- e. Provide any other assistance at the express direction of the resident or the resident's representative, except for administering the medication as defined in Section 465.003, F.S.

3. Medication administration in an AFCH is a nursing service and may only be provided as described in subsection (5) of this rule, except that instead of nursing progress notes, a record of medication administration shall be maintained which includes the name of the resident and any known allergies the resident may have; the name of the resident's health care provider and the health care provider's telephone number; the name of each medication prescribed, its strength, and directions for use; and a chart for recording each time the medication is taken, any missed dosages, refusals to take medication as prescribed, or medication errors. The chart must be updated each time the medication is administered.

4. A list of currently prescribed medications shall be maintained for all residents who self-administer or who require supervision or assistance with medications which includes the name of each medication prescribed, its strength and directions for use, and common side effects.

5. Nurses may manage weekly pill organizers for residents who self-administer or who require supervision or assistance with self-administration.

6. Prescription medications which are centrally stored by the provider shall be appropriately stored in their legally dispensed, labeled, original containers. Appropriately stored means that the medication be kept in an area free of dampness and abnormal temperatures, except that a medication requiring refrigeration shall be refrigerated.

(2) SUPERVISION.

(a) The AFCH provider shall provide general supervision which includes being aware of the resident's general whereabouts and well-being while the resident is on the premises of the AFCH in order to ensure the resident's safety and security, and reminding the resident of any important tasks or activities, including appointments, as needed by the resident. The provider is responsible for determining and providing adequate supervision however; under no circumstances shall a resident be left unattended for more than 2 hours.

(b) Any major incident and the action taken in response to that incident must be documented in the resident's record. A major incident includes:

1. An injury to a resident which requires assessment and treatment by a health care provider. The resident's record must include a description of the circumstances under which the injury occurred.

2. Determining that a resident is missing. Whenever a resident is determined to be missing, the provider, relief person, or staff-in-charge shall notify the local law enforcement agency within 1 hour. The resident's representative, next-of-kin, and case manager shall be notified within 4 hours or within a time frame previously agreed upon in writing between the provider and the resident's representative, next-of-kin, or case manager.

3. Any event, such as a fire, natural disaster, or other occurrence which results in the disruption of the AFCH's normal activities.

4. The death of a resident. The resident's representative, next-of-kin, and case manager must be notified within 4 hours of death or within a time frame previously agreed upon in writing between the provider and the resident's representative, next-of-kin, or case manager.

(3) HEALTH MONITORING. The AFCH provider shall be responsible for observing, recording and reporting any significant changes in the resident's normal appearance, behavior or state of health to the resident's health care provider and representative or case manager. Significant changes include a sudden or major shift in behavior or mood; a deterioration in health status, such as unplanned weight change, stroke, heart condition, a stage 2 pressure sore. Ordinary day-to-day fluctuations in functioning and behavior, short-term illness such as a cold, or the gradual deterioration in the ability to carry out the activities of daily living that accompanies the aging process are not considered significant changes. As part of health monitoring, residents shall be weighed on a monthly basis.

(4) FOOD SERVICE.

(a) For residents not routinely absent from the home for a day program or other purpose, at least 3 meals shall be prepared and served in the home where the resident lives during each 24 hour period. Beverages and nutritious snacks shall be made available between meals.

(b) If residents are routinely absent from the AFCH during a regular meal time, they must be provided with take-out meals if other provisions have not been made by the resident or the day program.

(c) Payment for meals eaten away from home for the convenience of the provider (i.e., restaurants or senior meal sites) is the responsibility of the provider. However, meals and snacks as part of an individually arranged recreational outing are the responsibility of the resident.

(d) In order to ensure adequate nutrition and variety, meals shall be planned based on the recommendations of the U.S. Department of Agriculture's Food Guide Pyramid – A Guide to Daily Food Choices, dated August 1992, which is incorporated by reference; prepared by methods which conserve nutritional value; and served in a form easy for the residents to manage. A copy of the Food Guide Pyramid may be obtained from the Assisted Living Program, Department of Elderly Affairs, 4040 Esplanade Way, Tallahassee, Florida 32399-7000, telephone number (850) 414-2309.

(e) Special diets are to be provided as prescribed in written orders by the resident's health care provider.

(f) Consideration shall be given to the resident's cultural and ethnic background and individual preferences in food selection and preparation.

(g) Dining and serving arrangements shall provide an opportunity for residents to make food selections.

(h) All residents shall be given the opportunity to eat with the AFCH provider, other residents, and other members of the household.

(5) NURSING SERVICES. In order to permit the resident to age in place, any nursing service needed by the resident can be provided or arranged for by the provider, or the resident or the resident's representative may directly contract with a licensed home health agency or nurse to provide these services, provided that:

(a) The resident does not exceed the admission and continued residency standards provided under Rule 58A-14.0061, F.A.C.; and

(b) If provided or arranged for by the AFCH provider, the nursing service must be:

1. Authorized by a health care provider's order;
2. Medically necessary and reasonable for treatment of the resident's condition;
3. Properly provided pursuant to Chapter 464, F.S., and the prevailing standard of practice in the nursing community;
4. A service that can be safely, effectively, and efficiently provided in the home;
5. Recorded in nursing progress notes; and
6. Provided in accordance with the residency agreement.

(6) ADDITIONAL SERVICES. The adult family-care home provider shall also ensure the provision of the following:

(a) The arrangement of, transportation to, and for someone to accompany the resident to medical, dental, nursing, or mental health appointments, to the extent needed by the resident.

(b) Clothing that is in good repair, consistent with general standards of dress in the community, and appropriate for the season.

(c) Linens and laundry services shall be furnished as needed by the provider. Residents who wish to use their own linens, or who are willing and able to do their own laundry shall be permitted to do so.

(d) Securing social and leisure services for the resident.

(e) Arranging for participation in religious activities, if requested by the resident.

(f) A congenial and homelike atmosphere within the residence.

Specific Authority 400.621 FS. Law Implemented 400.621, 400.628 FS. History—New 5-14-86, Amended 2-2-95, Formerly 10A-14.007, Amended 9-19-96, 6-6-99.

58A-14.008 Staff Qualifications, Responsibilities and Training.

(1) MINIMUM STAFF REQUIREMENTS.

(a) The provider, all staff, each relief person, and all adult household members must submit a statement from a health care provider, based on an examination conducted within the last six months, that the person is free from apparent signs and symptoms of communicable diseases including tuberculosis. Freedom from tuberculosis must be documented on an annual basis. Persons with a positive tuberculosis test must submit a physician's statement that the person does not constitute a risk of communicating tuberculosis.

(b) The provider, all staff, each relief person, and all adult household members must meet Level 1 background screening requirements established in Section 435.03, F.S., or have been exempted from disqualification as provided in Section 435.07, F.S. The provider must submit completed AHCA Forms 3110-0002 and 3110-0003, or other evidence of compliance as provided in Section 400.619, F.S., and Rule 58A-14.003, F.A.C., for any staff, relief persons, or adult household members not screened at the time of initial license application pursuant to the screening schedule provided in Section 435.05, F.S.

(c) The provider, each relief person, and all staff must comply with the training requirements provided in subsection (4) of this rule.

(2) PROVIDER.

(a) An adult family-care home provider must:

1. Be at least 21 years of age.
2. Live in the home.
3. Be able to read, write and complete written materials involved in applying for an AFCH license and maintaining an AFCH.
4. Complete required training.

(b) An adult family-care home provider is responsible for:

1. The operation and maintenance of the AFCH in accordance with Part VII of Chapter 400, F.S., and this rule chapter.

2. Ensuring that residents are appropriate for placement and continued residency in the home as provided under Rule 58A-14.0061, F.A.C., and that care and services are provided for residents in accordance with Rule 58A-14.007, F.A.C.

(c) In the event of severe illness, incapacity, or death of the provider, the relief person or staff in charge shall notify each resident's representative or case manager, and the AHCA Area Office within 24 hours.

(3) RELIEF PERSONS.

(a) The adult family care home provider must designate one or more relief persons to assume responsibility for the care of residents if the provider is not available to perform that duty.

(b) The relief person must be:

1. At least 21 years of age; and
2. Knowledgeable about and able to provide for all care needs of the residents.

(c) The provider must notify the agency in writing within 30 days of a change in relief persons and ensure that the relief person is appropriately background screened and trained as described in this rule.

(4) TRAINING.

(a) All AFCH providers must attend a 12-hour basic adult family-care home training program which covers the minimum requirements of Section 400.6211, F.S., prior to accepting any residents, or for providers who already have persons residing in the home that will be considered residents, prior to licensing.

(b) The AFCH provider shall annually obtain 3 hours of continuing education in topics related to the care and treatment of frail elders or disabled adults, or the management and administration of an adult family-care home.

(c) AFCH providers must attend update training for any portion of the basic course which has been updated as the result of new legislation or rule amendment.

(d) The AFCH provider, each relief person, and any person left in sole charge of residents, which may include staff, household members or volunteers, must hold a currently valid card documenting completion of courses in First Aid and CPR. A nurse shall be considered as having met the training requirement for First Aid.

(e) Prior to assuming responsibility for the care of residents or within 30 days of employment, the AFCH provider shall ensure that each relief person and all staff receive training in areas that are relevant to the person's job duties, including emergency and evacuation procedures, universal precautions, food safety, reporting abuse and neglect, and resident rights.

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

Specific Authority 400.619, 400.621, 400.6211 FS. Law Implemented 400.619, 400.621, 400.6211 FS. History--New 2-2-95, Formerly 10A-14.008, Amended 9-19-96, 6-6-99, 1-1-04.

58A-14.0085 Records.

(1) RESIDENT RECORDS. The AFCH provider shall maintain a separate record for each resident on the premises and available for inspection by the agency.

(a) The record shall, at a minimum, contain:

1. The Resident Health Assessment, DOEA Form 1110, required by Rule 58A-14.0061, F.A.C. A completed and signed form faxed by the health care provider shall be acceptable.

2. A copy of the residency agreement which meets the requirements of Rule 58A-14.0062, F.A.C., including a copy of any notices of rate increases sent to the resident or the residents representative and any addendums.

3. For residents who are OSS recipients, a copy of the Alternate Care Certification for Optional State Supplementation (OSS) Form, CF-ES 1006, March 1998, provided by the Department of Children and Family Services.

4. Resident information which includes:

a. The name, address and telephone number of the resident's guardian, attorney-in-fact, health care surrogate, next-of-kin, and any other responsible party with authority to make decisions on behalf of the resident.

b. The name, address and telephone number of the resident's health care provider, health maintenance organization, dentist and case manager as applicable.

5. A complete accounting of any resident funds being received or distributed by the provider as required by Section 400.628, F.S.

6. For residents who self-administer, with or without supervision or assistance, a list of the resident's current medications; or for resident's receiving administration, the record of medications administered, as required under Rule 58A-14.007, F.A.C.

7. For residents receiving nursing services provided or arranged for by the provider, the nursing progress notes required under Rule 58A-14.007, F.A.C., and the health care provider's order authorizing the nursing service.

8. A copy of any special diet order prescribed by the resident's health care provider as required under Rule 58A-14.007, F.A.C.

9. A record of any major incidents or significant health changes and action taken in response to such incidents or changes as required under Rule 58A-14.007, F.A.C.

10. The resident's monthly weight record as required by Rule 58A-14.007, F.A.C.

11. Documentation that the resident's bill of rights and the procedure for lodging complaints has been discussed with the resident or the resident's representative, as required by Rule 58A-14.0061, F.A.C.

12. Documentation that the house rules have been discussed with the resident or the resident's representative as required by Rule 58A-14.0061, F.A.C.

13. A copy of any notice of discharge sent to the resident or the resident's representative pursuant to Rule 58A-14.0061, F.A.C.

(b) Closed resident records shall be retained for a period of 5 years after the resident leaves the AFCH. The provider shall be permitted 1 working day to produce closed records.

(2) STAFF RECORDS.

(a) An AFCH provider shall, at a minimum, maintain the following personnel records on the premises and available for inspection by the agency:

1. For the AFCH provider, each relief person, each adult household member, and each staff person verification of freedom from communicable disease as required under Rule 58A-14.008, F.A.C.

2. For the AFCH provider, each relief person, and each staff person:

a. Written documentation of all training required by Rule 58A-14.008, F.A.C.

b. A copy of any professional license.

3. For each staff member employed by the provider, a copy of the employment application which shall include the date of beginning employment.

4. For any person left in sole charge of residents written documentation of First Aid and CPR training as required by Rule 58A-14.008, F.A.C.

(b) If the AFCH provider contracts with a staffing agency to provide services to residents, the contract between the AFCH provider and the staffing agency must specifically describe the services the agency will be providing to residents. The AFCH provider is not required to maintain personnel records for staff provided by a staffing agency.

(3) FACILITY RECORDS. The AFCH provider shall maintain the following records on the premises and available for inspection by the agency:

(a) The AFCH license issued by the agency, which shall also be available to the public upon request.

(b) A copy of the most recent county health department inspection required by Rule 58A-14.009, F.A.C.

(c) A copy of the most recent fire safety inspection required by Rule 58A-14.0091, F.A.C.

(d) Documentation of radon testing.

(e) The emergency plan required by Rule 58A-14.0091, F.A.C.

(f) An up-to-date log listing all residents, and each resident's:

1. Date of admission, the place admitted from and the reason for moving into the home, if known; and

2. Date of discharge, the reason for discharge, and the location to which the person has been discharged, or if the person is deceased, the date of death.

(g) All completed survey and complaint investigation reports, and notices of sanctions and moratoriums issued to the AFCH by the agency within the last 3 years, which shall also be available to the public upon request.

(h) For AFCHs which claim to provide special care for persons with Alzheimer's disease or related disorders, a copy of all advertisements or documents distributed to the public as described in Rule 58A-14.004, F.A.C.

Specific Authority 400.619, 400.621, 400.6211, 400.625 FS. Law Implemented 400.619, 400.621, 400.6211, 400.625, 400.628 FS. History--New 6-6-99.

58A-14.009 Physical Site Standards.

(1) GENERAL REQUIREMENTS.

(a) The AFCH shall be located, designed, equipped, and maintained to ensure a home-like environment, and to provide safe care and supervision for all residents. Residents shall be allowed free use of all space within the home except when such use interferes with the safety, privacy, and personal possessions of household members and other residents.

(b) The AFCH shall be structurally sound and in good repair. Windows, doors, plumbing, and appliances shall be functional and in good working order. All furniture and furnishings shall be clean and functional.

(c) In order to ensure a safe and sanitary environment, the AFCH must be inspected by the county health department, pursuant to Chapter 64E-12, F.A.C., at the time of license application and prior to license renewal.

(2) COMMON AREAS.

(a) At a minimum, there must be 40 square feet of common space per each resident and household occupant, or a total of 150 square feet of common area, whichever is greater. Common space includes the living room, family room, and dining room. The basement and garage shall not be included in the total common area unless such space was constructed or renovated to be used as a common area pursuant to a lawfully issued permit. Household occupants include residents and household members, 2 years of age and older, who reside in the AFCH.

(b) The furnishings in common areas shall be adequate to accommodate all residents and household members, including allowing the residents and household members to eat together in the dining area. The provider shall assist the resident to use any adaptive equipment for eating if such equipment has been ordered by the resident's health care provider.

(c) The AFCH shall, at a minimum, maintain a telephone in the home which is available and accessible for the residents' use at all times and, to the extent practicable, situated so as to facilitate private communication.

(d) Pursuant to Section 400.0071, F.S., the procedures for lodging complaints with the long-term care ombudsman council must be posted in full-view in a common area accessible to all residents.

(3) **BEDROOMS.**

(a) Single bedrooms for residents shall provide at least 80 square feet of floor space for each resident. Multi-occupancy bedrooms shall provide at least 60 square feet of floor space per resident. Any area where a sloped ceiling does not allow a person to stand upright shall not be counted as part of the required floor space. Homes licensed for the first time after February 2, 1995, or already licensed homes who increase their maximum capacity after February 2, 1995, may not have more than two residents per room.

(b) Bedrooms for all residents shall be finished with walls or partitions which go from floor to ceilings and which have a door which opens directly to a hallway or common area without passage through another bedroom or common bathroom. Bedroom doors shall not have vision panels. Window drapes or shades shall be provided to ensure resident privacy.

(c) There shall be a separate bed at least 36 inches wide and 72 inches in length for each resident consisting of a mattress and frame at a comfortable height to assure easy access by the resident. Cots, rollaways, bunks, trundles, couches, and folding beds may not be used for residents.

(d) A household member may not sleep in areas designated as common areas, nor share a bedroom with a resident. Married residents shall be provided the option of sharing bedroom accommodations, but non-related residents of different genders shall not be required to share bedroom accommodations.

(e) In addition to closet space, each bedroom shall have separate and private storage space for each resident's clothing and personal effects. Residents shall be allowed to keep and use reasonable amounts of personal belongings, and shall be allowed to decorate their private quarters in an individual style provided such decor does not damage the provider's property.

(f) Bedrooms shall be on a ground level for residents who are non-ambulatory or have impaired mobility.

(4) **BATHROOMS.**

(a) A toilet and sink shall be provided on each floor with resident bedrooms. There shall be at least one toilet and sink for each 4 household occupants, and at least one tub or shower for each 6 household occupants. Household occupants include residents and household members, 2 years of age and older, who reside in the AFCH.

(b) Bathrooms shall have a finished interior, a mirror, and a door which insures privacy and opens to a hall or common area. Access to a bathroom may not be through another person's bedroom.

(c) Glass shower doors shall be tempered safety glass; shower curtains shall provide privacy. Non-slip floor surfaces shall be provided in tubs and showers. Residents shall have racks or hooks for drying bath linens and be provided a separate place for tooth brushes and towels.

(d) Bathrooms used by physically handicapped residents shall have grab bars for toilets, tubs, and showers. Hot water temperature shall be supervised for persons unable to self-regulate water temperature.

(e) If the home has a hot tub or spa, it shall have a safety cover when not in use.

(5) **OUTDOOR AREAS.** The AFCH shall have a yard available and accessible for use by residents.

Specific Authority 400.619, 400.621 FS. Law Implemented 400.619, 400.621 FS. History—New 2-2-95, Formerly 10A-14.009, Amended 9-19-96, 3-25-98, 6-6-99.

58A-14.0091 Fire Safety Standards and Emergency Procedures.

(1) **FIRE SAFETY STANDARDS.**

(a) Each adult family-care home shall be subject to Chapter 21, Section 22-3.3.5.3 of Chapter 22, Sections 23-2.2.1 and 23-2.3.4.3 of Chapter 23, and Sections 31-7.1, 31-7.2, and 31-7.3 of Chapter 31 of the National Fire Protection Association Life Safety Code, NFPA 101, 1994 edition, which is adopted by reference.

(b) At the time of license application, prior to license renewal, and prior to an increase in capacity, the provider shall request the local authority having jurisdiction over fire safety to inspect the home for compliance with local codes and ordinances and the minimum standards of this rule. The inspection may be made by an employee of the agency who has a certification in fire safety, if the local fire authority indicates in writing that there is no inspector available to conduct an inspection. However, only the local fire authority shall give approval for multi-storied frame buildings.

(2) **EMERGENCY PROCEDURES.**

(a) The AFCH shall have a written plan which specifies emergency and evacuation procedures for fires and such natural disasters as hurricanes, floods, and tornadoes. The provider shall review the plan's emergency and evacuation procedures with the residents, the relief person, all staff, and all household members.

(b) The provider shall at all times maintain first aid and emergency supplies including a 3-day supply of non-perishable food based on the number of residents and household members currently residing in the home, and 2 gallons of drinking water per current resident and household member.

(c) Emergency telephone numbers shall be present by a designated telephone and include the following:

1. The emergency number 911;
2. Police;
3. Fire department;

4. Ambulance;
5. The Florida Poison Information Center 1(800)282-3171;
6. Abuse Hotline 1(800)962-2873;
7. District Long-Term Care Ombudsman Council;
8. AHCA's Area Office; and
9. The Relief Person.

Specific Authority 400.619, 400.621 FS. Law Implemented 400.619, 400.621 FS. History--New 9-19-96, Amended 6-6-99.

58A-14.010 Administrative Enforcement.

(1) GENERAL REQUIREMENTS.

(a) The provider shall cooperate with agency personnel during surveys or inspections, complaint investigations, implementation of correction plans, license application and renewal procedures, and other activities necessary to ensure compliance with Part VII of Chapter 400, F.S., and this rule chapter.

(b) In addition to agency personnel, reasonable access to enter and inspect a licensed AFCH must be provided to any designated agent of the department, the Department of Health, the local authority with jurisdiction over fire safety, the Department of Children and Family Services, and the Human Rights Advocacy Committee. Representatives of the district long-term care ombudsman council shall be provided reasonable access pursuant to the provisions of Section 400.0073, F.S.

(2) INSPECTIONS.

(a) The agency shall conduct a survey or inspection of an adult family-care home:

1. Prior to issuance of a license;
2. Prior to annual renewal of a license;
3. Upon receipt of an oral or written complaint of practices that threaten the health, safety, or welfare of residents;
4. At any time if the agency has reason to believe an AFCH has violated a provision of Part VII of Chapter 400, F.S., or this rule chapter;

5. To determine if cited deficiencies or noticed violations have been corrected; and

6. To determine if an adult family care home is operating without a license.

(b) The inspection shall consist of full access to and examination of the home's physical premises, including the buildings, grounds, and equipment, and facility and resident records.

(c) Agency personnel may interview the provider, relief person, staff and residents. Interviews shall be conducted privately.

(d) Agency personnel shall respect the private possessions of residents, providers, household members, and staff while conducting the inspection.

(e) At the time of the inspection, the provider will be orally advised of any deficiencies found by agency personnel and a time frame established for correction of the violations. The time frame for the correction of violations starts from the date of the inspection. Cited deficiencies must be observed or otherwise substantiated by agency personnel. A written statement listing the deficiencies found, the rules or statutes violated, any corrections required, and time frames for correction shall be mailed to the AFCH by the agency within 10 working days after the date of inspection.

(f) For Class I violations that present an imminent danger to the health, safety or welfare of residents, the provider must correct the violation and abate the conditions no later than 24 hours and after agency inspection, unless a different time frame has been fixed by the agency as required by Section 400.6196, F.S. The agency shall inspect the AFCH after the 24 hour period to determine if the violations have been corrected.

(g) For deficiencies found following an initial license or license renewal survey, a follow-up survey will be conducted to determine if the deficiencies have been corrected within the required time frame.

(3) COMPLAINT INVESTIGATIONS.

(a) The agency shall investigate any complaints regarding alleged practices in an AFCH that threaten the health, safety, or welfare of residents and shall notify the provider of the nature of the complaint, the results of the investigation, and any proposed action or sanction.

(b) If a complaint pertaining to the health, safety or welfare of residents is substantiated, the license of the provider shall be subject to agency actions or sanctions as provided in Part VII of Chapter 400, F.S., and this rule.

(c) Pursuant to Section 400.628, F.S.:

1. The provider may not retaliate against any resident by increasing charges; decreasing services, rights or privileges; threatening to increase charges or decrease services, rights or privileges; by taking or threatening to take any action to coerce or compel the resident to leave the home or by harassing, abusing or threatening to harass or abuse a resident in any manner after the resident has filed a complaint with the agency or with the long-term care ombudsman council.

2. Any complainant, witness or staff shall not be subject to any retaliation, including restriction of access to the home or a resident, staff dismissal or harassment by a provider for filing a complaint or being interviewed about a complaint or being a witness.

(4) **PLAN OF CORRECTION.** For deficiencies found following a complaint investigation or other monitoring visit, the provider must provide a written plan of correction for each deficiency cited and a time frame for the correction of the deficiencies within the time frame discussed at the time of the complaint investigation or monitoring visit. The plan of correction must be returned no later than 10 working days after receipt of written notice.

(5) **INFORMAL CONFERENCE.** At any time after receipt of an oral or written notice of deficiencies, but prior to the expiration of the time frame for making corrections, the licensee or the agency may request a conference. The purpose of the conference is to discuss the deficiency and to provide information to the licensee or to the agency to assist the licensee in complying with the requirements of Part VII of Chapter 400, F.S., and these rules. The request by a licensee or the agency for a conference does not extend any previously established time limit for correction.

(6) **ADMINISTRATIVE SANCTIONS.**

(a) If, after inspection the deficiencies have not been corrected within the time frame specified, or if the agency has not otherwise received sufficient evidence of compliance by the provider, the agency shall serve notice of administrative complaint upon the licensee in the manner provided under Chapter 120, F.S., and Part II of Chapter 59-1, F.A.C., and impose one or more administrative sanctions as provided under Sections 400.6194 and 400.6196, F.S.

(b) Notice of a license suspension or revocation shall be posted in the AFCH and visible to the public entering the home and residents.

(7) **MORATORIUMS.**

(a) Pursuant to Section 400.6196, F.S., an immediate moratorium on admissions to an AFCH shall be placed on the home by the agency when it has determined that any condition or practice in the home presents a serious threat to the health, safety, or welfare of the residents.

(b) Following the imposition of the moratorium, the provider shall be provided with written confirmation of the placing of a moratorium by the agency, which notice shall be posted in the AFCH such that it is visible to the public entering the home, and shall:

1. Explain the reasons the moratorium was imposed;

2. Advise the provider how to arrange for an appraisal inspection by agency personnel to verify that corrections have been made;

3. Advise the provider of his/her right to request an administrative hearing pursuant to Section 120.57, F.S., and Part II of Chapter 59-1, F.A.C.

(c) While the moratorium is in effect, residents who have been temporarily discharged from the AFCH to a nursing home or hospital at the time the moratorium is imposed may not be re-admitted without agency approval.

(d) Moratoriums shall not be lifted until the violations have been corrected and the agency has been assured by an appraisal inspection that there is no longer any threat to the residents' health, safety, or welfare. The lifting of a moratorium will be confirmed by written notification.

Specific Authority 400.619, 400.6196, 400.621 FS. Law Implemented 400.619, 400.6194, 400.6196, 400.628 FS. History—New 2-2-95, Formerly 10A-14.010, Amended 9-19-96, 6-6-99.

CHAPTER 58C-1 COMMUNITY CARE FOR THE ELDERLY

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58C-1.001 Definitions.

As used in this chapter:

(1) Adult Day Care means a social program which assures that a protective environment and preventive, remedial, and restorative services are provided to functionally impaired adults in need of such care.

(a) Adult Day Health Care means an organized day program of therapeutic, social and health activities and services provided to functionally impaired adults for the purpose of restoring or maintaining optimal capacity of self care.

(2) Area Agency on Aging (AAA) means the agency designated by the Department in a planning and service area defined by the Department to develop and administer the area plan for a comprehensive and coordinated system of services for older persons.

(3) Area Plan (Plan of Action) means a plan developed by an Area Agency on Aging for a comprehensive and coordinated service delivery system in its planning and service area in accordance with 42 U.S.C. 3001 et seq., Older Americans Act of 1965, as amended, on a uniform area plan format prescribed by the State Unit on Aging. This plan identifies such funding resources as: the Older Americans Act (OAA), Community Care for the Elderly (CCE), and other funds; and sets forth measurable objectives; and, identifies the planning, coordination, evaluation activities to be undertaken for the period. The area plan is developed and submitted by the Area Agency on Aging and submitted to the State Unit on Aging. Annual updates of the area plan are required.

(4) Case/Care Plan means a plan which specifies the ongoing services prescribed for a CCE client to meet the needs identified in the comprehensive assessment. The care plan shall specify the estimated duration, desired frequency, problem statements, and scope of the services to be provided. It shall identify the provider agency, organization or person(s) responsible for providing the service(s). It shall also identify non-traditional providers such as families, churches, private agencies and neighbors. The care plan shall include a listing of desired outcomes agreed to with the client or caregiver where client is incapacitated. The case plan shall be signed by the case manager and the client.

(5) Case Management means a client centered series of activities which includes planning, arrangement for, and coordination of community based services for an eligible Community Care for the Elderly client. Case Management is an approved service, even when delivered in the absence of other services. Case management includes intake and referral, travel time related to the client's case, a comprehensive client assessment, development of an individualized care plan with planned client outcomes, and follow-up contacts for the purpose of monitoring the client's situation and to assure timely, effective delivery of service.

(6) Chore Service means the performance of house or yard tasks including seasonal cleaning, essential errands, yard work, lifting and moving, and simple household repairs for eligible persons who are unable to do these tasks for themselves because of frailty or other disabling conditions.

(7) Comprehensive Assessment means an assessment which records an individual's physical health status, ability to perform activities of daily living, existing social support including individual client preferences and mental functioning.

(8) Community means a geographic area designated by the Area Agency on Aging after considering the needs, the availability and delivery pattern of local services, and natural boundaries of neighborhoods. A community can be a county, a portion of a county, or two or three counties.

(9) Core Service means services limited to adult day care, chore service, counseling, emergency home repair, health maintenance service, home delivered meals, homemaker services, information, medical transportation services, mini-day care, referral, and respite care.

(10) Counseling means an interactive process, on a one-to-one or group basis, wherein a person is provided direct guidance and assistance in the utilization of needed health, mental health, financial, and social services, and help in coping with personal problems through the establishment of a supportive relationship. Counseling may include the purchase of professional mental health and financial management counseling services.

(11) Emergency Alert Response Service means a community based electronic surveillance service system established to monitor the frail homebound elderly by means of an electronic communication link with a response center which will alert and dispatch properly qualified assistance to the client in need on a 24 hour, seven days a week basis.

(12) Emergency Home Repair means assistance in obtaining critical repairs or alterations to correct deficiencies or situations identified as a barrier to the eligible person's health, safety, or ability to perform activities of daily living or as an impediment to the delivery of services to that eligible person.

(13) Health Maintenance Services means those routine health services necessary to help maintain the health of a functionally impaired elderly person, but shall be limited to medical therapeutic services, nonmedical prevention services, personal care services, home health aide services, home nursing services, and emergency response systems.

(14) Home Delivered Meals means a nutritionally sound meal that meets one-third of the current daily recommended dietary allowance serviced in the home to a homebound older person.

(15) Home Health Aide Service means health or medically oriented tasks provided to an eligible individual in his residence by a home health aide. The home health aide must be employed by a licensed home health agency and supervised by a licensed health professional who is an employee or contractor of the home health agency, in accordance with Chapter 59A-8, F.A.C. This service must be prescribed by a physician or nurse practitioner licensed in the State of Florida.

(16) Home Nursing Service means part-time or intermittent nursing care administered to an individual by a licensed practical nurse, registered nurse, or advanced registered nurse practitioner, in the individual's place of residence, pursuant to a plan of care approved by a licensed physician and in accordance with Sections 400.462(6), 400.464(5)(a), 410.0241, and Chapter 464, F.S. Home nursing service must be provided through a licensed home health agency.

(17) Homemaker Service means the accomplishment of specific home management duties including housekeeping, meal planning and preparation, shopping assistance, and routine household activities by a trained homemaker.

(18) Information means responding to an inquiry from a person, or on behalf of a person, regarding resources and available services.

(19) Medical Therapeutic Service means those corrective or rehabilitative services which are prescribed or administered by a physician or other health care professional in accordance with Sections 400.462(6), 400.464(5)(a), 410.0241 and Chapter 464, F.S. Such services are designed to assist the functionally impaired older person to maintain or regain sufficient functional skills to live independently in his or her place of residence and include physical, occupational, respiratory, hearing disorder or speech-language therapy. Medical therapeutic services must be provided through a licensed home health agency.

(20) Medical Transportation Services means the provision of rides and/or escort services to and from medical services. Medical services are defined as visits to physicians, dentists, psychiatrists, physical therapists, clinics, hospitals, mental health centers, or any similar facility or service provider. The service can include intermediate stops to fill prescriptions and buy medical supplies in conjunction with such visits.

(21) Mini-Day Care means a program providing for supervised care in a private home, licensed adult congregate living facility, or adult family care home for up to five impaired persons for a portion of a 24 hour day. A meal and snacks and social and recreational activities are included as part of the service.

(22) Personal Care Services means those non-medically oriented tasks provided by a personal care worker to assist the functionally impaired elderly person with bathing, dressing, ambulation, housekeeping, supervision, emotional security, eating, supervision of self-administered medications and assistance with securing health care from appropriate sources. Personal Care Services shall be provided with the supervision of a nurse licensed under Chapter 464, F.S.

(23) Referral means activity wherein a person's needs are determined and the person is directed to a particular resource(s). Contact with the resource(s) is made for the person. Follow-up is conducted with the client and referral agency to determine whether the service was received.

(24) Respite Care means a service to provide supervision, companionship, or personal care, to a functionally impaired older person for a specified period of time. The purpose of the service is to maintain the quality of care to the client for a sustained period of time through temporary, intermittent relief of the primary caregiver.

(25) Service Provider means an individual, group or organization that is awarded a subgrant or contract from the Department, lead agency or an Area Agency on Aging to provide core or other services under the Area Agency on Aging Community Care for the Elderly Application plan.

Specific Authority 410.021-.029, 430.08 FS., ch. 80-101, s. 10, ch. 91-115, s. 10, Laws of Fla. Law Implemented 410.021-.029, 430.03(6) FS., ch. 91-115, s. 10, Laws of Fla. History—New 3-11-81, Formerly 10A-10.01, 10A-10.001, Amended 3-28-95.

58C-1.002 Eligibility.

(1) Persons who meet the following criteria are eligible for CCE core services:

(a) Shall be age 60 or over;

(b) Shall be functionally impaired as determined through the initial comprehensive assessment and shall be reassessed at least annually;

(2) Priority shall be given to those persons who are assessed to be at risk of placement in an institution or who are abused, neglected or exploited.

Specific Authority 410.021-.029, 430.08 FS., ch. 80-181, s. 10, ch. 91-115, s. 10, Laws of Fla. Law Implemented 410.023(4), 410.0241(6), 430.03(6) FS., ch. 91-115, s. 10, Laws of Fla. History—New 3-11-81, Formerly 10A-10.02, 10A-10.002, Amended 3-28-95.

58C-1.003 Administration.

(1) The Department shall administer directly or through an Area Agency on Aging, at least one community care service system in each planning and service area where practical.

- (a) The Area Agency on Aging responsibilities include:
1. Plan for and approve funds for community care service systems;
 2. Submit annually to the Department Community Care for the Elderly Contract Module Sections of the Area Plan;
 3. Administer Community Care for the Elderly Program in accordance with the Department of Elder Affairs Programs and Service Manual, dated July 1994 and revised November 1994, available in the Office of the Department Secretary and at each Area Agency on Aging, and herein incorporated by reference;
 4. Administer Community Care for the Elderly contracts;
 5. Cooperate with lead agencies to determine core services to be funded;
 6. Designate lead agencies;
 7. Advertise funds available for lead agencies and core services;
 8. Provide technical assistance to lead agency applicants;
 9. Require annual submission of Service Provider Application, DOEA Form #218, dated September 1994, available in the Office of the Secretary and herein incorporated by reference, for funding of current lead agency and core service providers utilizing applications provided by the Department;
 10. Notify applicants of acceptability of applications and any further action;
 11. Assess applicant's ability to be a lead agency and provide core services and case management as well as ability to sub-contract, if applicant indicates plans to do so;
 12. Provide the Department with review copies of applications;
 13. Assess fiscal management capabilities;
 14. Monitor the lead agencies' case management capabilities;
 15. Assess availability of ten percent match for lead agency budget; match is the minimum funding necessary for the support of project operations and includes in-kind or cash contributions;
 16. Contract for lead agency and core services according to manuals, rules and contract procedures of the Department. The lead agency shall provide case management and shall subcontract or directly provide core services;
 17. Monitor and evaluate contracts programmatically and fiscally;
 18. Make payments to contractors;
 19. Provide for in-service training for lead agencies at least once a year;
 20. Establish procedures for appeals regarding contracts for lead agencies and core services and for appeals regarding denial, reduction or termination of core services and assessed contributions. Criteria are to assure a timely response and identify how appeals are handled and the time limitations involved;
 21. Assure that procedures for appeals regarding denial of core services, reduction of core services, or termination of core services are followed by each lead agency.
- (b) Lead Agency responsibilities include:
1. Coordinate services for functionally impaired elderly;
 2. Provide case management;
 3. Provide or sub-contract for at least four core services;
 4. Compile community care statistics as required by the Department;
 5. Monitor its sub-contracts following standards set by the Department and as identified in the Department of Elder Affairs Programs and Services Manual, dated July 1994 and revised November 1994, available in the Office of the Department Secretary and at each Area Agency on Aging, and herein incorporated by reference;
 6. Make payments to sub-contractors for core services;
 7. Collect contributions and donations for core services provided according to Rule 58C-1.007, F.A.C.;
 8. Utilize services provided by recipients of core services in lieu of contributions;
 9. Locate in a multi-service senior center when practicable;
 10. Provide for in-service training for staff including volunteers and core service contractors at least once a year;
 11. Accept contributions, gifts and grants to carry out a community care service system;
 12. Maximize use of volunteers to provide core services to functionally impaired elderly persons;
 13. Demonstrate innovative approaches to program management, staff training, and service delivery that impact on cost avoidance, cost effectiveness and program efficiency;
 14. Follow procedures established by the contracting agency for appeals regarding denial, reduction or termination of core services to clients and for appeals regarding contracts for core services.
 15. Ensure that quality services are delivered in a timely manner to eligible individuals.
 16. Case managers shall ensure that all other resources have been utilized prior to approving the provision of services with Community Care for the Elderly funds.
 17. All agencies receiving Community Care for the Elderly funds shall maintain client, fiscal and program records and provide reports as specified by the Department of Elder Affairs Programs and Services Manual, dated July 1994 and revised November 1994, available in the Office of the Department Secretary and at each Area Agency on Aging, and herein incorporated by reference.

Specific Authority 410.021-.029, 430.08 FS., ch. 80-181, s. 10, ch. 91-115, s. 10, Laws of Fla. Law Implemented 410.024, 410.0241, 430.03(6) FS., ch. 91-115, s. 10, Laws of Fla. History–New 3-11-81, Formerly 10A-10.03, 10A-10.003, Amended 3-28-95.

58C-1.004 Application Procedures.

(1) Prior to advertising for the lead agency, each Area Agency on Aging, shall review the results of the most current aging needs assessment and waiting lists for services in each service area in order to determine the area of the planning and service area most in need of core services and which core services are most needed.

(2) Existing Community Care for the Elderly lead agencies and core service providers shall submit a service provider application each year in order to be considered for refunding. The Service Provider Application is DOEA Form #218, dated September 1994, available in the Office of the Department Secretary, and herein incorporated by reference.

(3) Standards for approval of applications.

(a) Prior to contracting with any lead agency, the Area Agency on Aging administering the program shall assess the applicant's or provider agency's ability to meet lead agency or service provider requirements as contained in Rule 58C-1.005, F.A.C.

(b) Applications which are properly and completely prepared according to the instructions provided will be approved for contracts subject to the availability of State and local resources in sufficient amounts to assure that cash outlays can be met.

(c) The contracting agency which funds and administers Community Care for the Elderly shall review all applications and determine which applications are approved for funding. The approved agency must demonstrate sound fiscal management in accordance with generally accepted accounting principles and be capable of providing core services, case management and coordination of services.

(d) The lead agency and any of its core service providers will provide a minimum of ten percent of the funding necessary to support the program. Cash or in-kind resources may be used to meet this matching requirement.

(4) Contracting and Financial Management Procedures. Contracts between the department, the Area Agency on Aging, lead agency or core service providers shall follow departmental contracting and financial management procedures in accordance with the Financial Management of Older Americans Act Programs manuals, HRSM 55-1, dated 1990, and HRSM 75-2, dated 1993, available in the Office of the Department Secretary, and herein incorporated by reference.

Specific Authority 410.021-.029, 430.08 FS., ch. 80-181, s. 10, ch. 91-115, s. 10, Laws of Fla. Law Implemented 410.024, 410.241, 430.03(6) FS., ch. 91-115, s. 10, Laws of Fla. History–New 3-11-81, Formerly 10A-10.04, 10A-10.004, Amended 3-28-95.

58C-1.005 Provider Requirements.

All providers shall comply with the Department of Elder Affairs Programs and Services Manual, dated July 1994 and revised November 1994, available in the Office of the Department Secretary and at each Area Agency on Aging, and herein incorporated by reference.

Specific Authority 410.021-.029, 430.08 FS., ch. 80-181, s. 10, ch. 91-115, s. 10, Laws of Fla. Law Implemented 410.024-.0241, 430.03(6) FS., ch. 91-115, s. 10, Laws of Fla. History–New 3-11-81, Formerly 10A-10.05, 10A-10.005, Amended 3-28-95.

58C-1.007 Contributions and Donations.

(1) Lead agencies are responsible for collection of contributions and donations from recipients of Community Care for the Elderly core services.

(2) Once an applicant is deemed eligible (Ref. Rule 58C-1.002, F.A.C.), a determination shall be made as to a dollar amount that the applicant must be assessed for those services based on an overall ability to pay. Partial payments may also be assessed.

(3) If it is readily apparent, after completion of the Department of Elder Affairs Programs and Services Manual assessed contribution work sheet, that the applicant is not able to afford a partial or total contribution towards payment for services, further inquiry as to the applicant's income level is unnecessary. Included within this category is an applicant whose monthly expenses are such that a contribution would be punitive. In these situations, service providers may continue to request voluntary contributions or donations.

(4) The case manager shall request information from the applicant, his or her spouse, relative or guardian in order to establish a contribution assessment.

Specific Authority 410.021-.029, 430.08 FS., ch. 80-181, s. 10, ch. 91-115, s. 10, Laws of Fla. Law Implemented 410.024(8), 430.03(6), 430.06(2)(c)13. FS., ch. 91-115, s. 10., Laws of Fla. History–New 3-11-81, Formerly 10A-10.07, 10A-10.007, Amended 3-28-95.

58C-1.008 Program Forms.

The following forms shall be used for programs regulated by this chapter, are hereby incorporated by reference, and are available in the Office of the Secretary and at each Area Agency on Aging:

(1) For purposes of assessment:

(a) DOEA Form 701A, Prioritization Form, dated July, 2000.

(b) DOEA Form 701B, Assessment Instrument, dated July, 2000.

(c) DOEA Form 701C, Congregate Meals Form, dated July, 2000.

(2) For purposes of completing forms listed in subsection (1): DOEA Form 701D, Assessment Instructions (701A, 701B, 701C), dated July, 2000.

(3) For purposes of documenting planned services of care: DOEA Forms 203A, Care Plan, and 203B, instructions dated July, 2001.

Specific Authority 430.08, 430.203-.205 FS. Law Implemented 430.201-.207 FS. History—New 8-20-00, Amended 8-6-01.

CHAPTER 58D-1 ADMINISTRATION OF THE ALZHEIMER'S DISEASE INITIATIVE

58D-1.001	Purpose.
58D-1.002	Definitions.
58D-1.003	Eligibility.
58D-1.004	Program Components.
58D-1.005	Program Administration.
58D-1.006	Service Provider Responsibilities.
58D-1.007	Program Forms.

58D-1.001 Purpose.

The purpose of these rules is to provide a framework by which the Department of Elder Affairs will administer Sections 410.401 through 410.403, Florida Statutes, the Alzheimer's Disease Initiative. The Alzheimer's Disease Initiative (hereinafter ADI) was established by the Legislature in 1985 to provide services and training to address the special needs of individuals suffering from Alzheimer's disease and related memory disorders and their caregivers. It also provides for research relating to the cause, prevention, management and treatment of the disease.

Specific Authority 410.401(3), 430.08 FS. Law Implemented 410.401-.403, 430.04(6) FS., Ch. 91-115, Laws of Florida, s.10. History--New 3-28-95.

58D-1.002 Definitions.

(1) Alzheimer's Disease: A progressive brain syndrome with insidious onset which results in impaired memory, language and cognitive dysfunction during an alert state, behavioral changes, and a decline in the ability to perform activities of daily living. Alzheimer's disease can ultimately result in death. The term as used in these rules includes other "related memory disorders".

(2) Alzheimer's Disease Advisory Committee: The committee created pursuant to Section 410.401(2), F.S., to advise the Department in the performance of its duties pursuant to the ADI.

(3) Alzheimer's Disease Initiative or ADI: The programs and services created and funded under the provisions of Sections 410.401-.403, F.S.

(4) Alzheimer's Disease Research Brain Bank: The entity designated by the Department to collect post mortem normal control brains and brains of individuals who were clinically diagnosed as having Alzheimer's disease for the purpose of conducting comparative research aimed at learning about, finding a cause and developing a treatment or cure for the disease.

(5) Alzheimer's Disease Registry: The entity designated by the Department to design and operate a data base to support demographic and epidemiological research on Alzheimer's disease.

(6) Area Agency on Aging (AAA): The agency designated by the Department in a planning and service area (PSA) to develop and administer a plan for a comprehensive and coordinated system of services for older people.

(7) Area Plan: The document developed by each Area Agency on Aging and submitted to the Department which identifies the planning, administrative and coordination activities to be undertaken by the Area Agency on Aging to assure a comprehensive and coordinated system of services for older people in the designated planning and service area.

(8) Case Management: A client centered series of activities which include planning, arranging and coordinating community-based services for an eligible client and caregiver. Case management is an approved service, even when delivered in the absence of other services. Case management can be offered with services for emergency cases without an assessment for a limited period of time. Case management includes a comprehensive client assessment, development of an individualized care plan with planned client outcomes, and follow-up contacts for the purpose of monitoring the client's situation to assure timely, effective delivery of services. Case management is a required service for model day care and respite care providers. It shall be provided to clients and caregivers in accordance with standards established by the Department.

(9) Client: For the purposes of these rules, the client is the person with Alzheimer's disease; however, the client's caregiver will receive residual benefits through the provision of education, training and support services.

(10) Department: The Department of Elder Affairs, the state agency designated to administer the ADI.

(11) District: The term as used in these rules mean planning and service area.

(12) Memory Disorder Clinic: Research oriented programs created pursuant to Sections 410.402(1) and (2), F.S., to provide diagnostic and referral services, conduct basic and service-related multidisciplinary research, and develop training materials and educational opportunities for lay and professional caregivers of individuals with Alzheimer's disease. The memory disorder clinics are located at the University of Florida (Gainesville), University of South Florida (Tampa), University of Miami (Miami), Mount Sinai Medical Center (Miami Beach), North Broward Regional Medical Center (Pompano Beach), and Florida Institute of Technology (Melbourne). Mayo Clinic Jacksonville (Jacksonville) was funded by the 1994 appropriations bill as a memory disorder clinic. Memory disorder clinics shall provide:

(a) A minimum of four hours of in-service training annually to model day care and respite care providers in the designated service area; and

(b) A minimum of one annual contact with each model day care and respite care provider in the designated service area to plan and develop service-related research projects.

(13) Model Day Care Program: Refers to the three specialized day care programs specifically authorized by Section 410.402(3), F.S. These programs provide a therapeutic setting for the provision of specialized services to clients with Alzheimer's disease. They also provide training to health care and social service personnel and caregivers, and serve as a natural laboratory for research.

(14) Planning and Service Area: The term as used in these rules means a geographic area of Florida that is designated for purposes of planning, development, delivery and overall administration of services under the ADI.

(15) Programs and Services Manual: Department of Elder Affairs Programs and Services Manual, dated July 1994 and revised November 1994, available at the Office of the Department Secretary and at each Area Agency on Aging, and incorporated herein by reference.

(16) Related Memory Disorders: Other forms of progressive memory disorders that result in diminished memory, language and other cognitive functions and the inability to perform activities of daily living. Related memory disorders are included under the ADI in these rules.

(17) Research: The term as used in these rules refers to investigations undertaken to learn more about the Alzheimer's disease process in order to determine the cause, resulting behavioral changes, treatment, cure, and family or societal impact of the disease.

(18) Respite Care: A service to provide supervision and companionship for a specified period of time to a person with a diagnosis of Alzheimer's disease as defined in these rules. The purpose of respite care is to provide temporary relief to the primary caregiver. Service providers may offer personal care services, as defined in Section 400.402(16), F.S., and essential supplies to a client under these rules.

(a) Facility-Based Respite: Respite care provided in a facility such as a licensed nursing home, adult day care center, adult congregate living facility, or other facility operated by a program under contract with funds provided by the department.

(b) In-home Respite: Respite care provided in the home or principal residence of the client or primary caregiver.

(19) Service Provider: A private or public organization receiving funds from the Department to provide services to individuals with Alzheimer's disease or to their caregivers.

(20) Training: The term as used in these rules refers to the provision of educational activities and instruction to assist health care and social service providers and the client's caregiver in understanding Alzheimer's disease and to increase their knowledge and caregiving skills.

Specific Authority 410.401(3), 430.08 FS. Law Implemented 410.401-.402, 430.04(6) FS., Ch. 91-115, Laws of Florida, s. 10. History--New 3-28-95.

58D-1.003 Eligibility.

(1) To be eligible to receive model day care services, an individual, regardless of age, must have a diagnosis of Alzheimer's disease or related memory disorder.

(2) Individuals, regardless of age, may be diagnosed as having or be suspected of having Alzheimer's disease or related memory disorders to be eligible for all other services funded under the Alzheimer's Disease Initiative.

(3) The caregivers of individuals receiving services funded under the ADI are eligible to receive training and related support services to assist them in caring for the person with Alzheimer's disease.

Specific Authority 410.401(3), 430.08 FS. Law Implemented 410.402(2)-(4) FS., Ch. 91-115, Laws of Florida, s. 10. History--New 3-28-95.

58D-1.004 Program Components.

(1) In its role as advisor to the Department, the Alzheimer's Disease Advisory Committee shall have responsibility for each of the following components:

(a) Memory Disorder Clinics;

(b) Registry;

(c) Brain Bank;

(d) Model Day Care; and

(e) Respite Care.

(2) The Alzheimer's Disease Advisory Committee shall address service, training, research and coordination among components.

(3) The Alzheimer's Disease Advisory Committee may enlist services, assistance and direction from a broad representation of health care professionals, service providers, individuals affiliated with the Alzheimer's Association, caregivers, and other interested or knowledgeable parties.

Specific Authority 410.401(2), 430.08 FS. Law Implemented 410.401(2) F.S., Ch. 91-115, Laws of Florida, s. 10. History--New 3-28-95.

58D-1.005 Program Administration.

(1) The Department of Elder Affairs shall plan, develop and coordinate a statewide program to carry out its responsibilities under the ADI. The Department shall:

- (a) Develop a multi-year plan.
 - (b) Allocate funds for respite services based on the number and proportion of persons seventy-five years of age and older within counties in the Planning and Service Areas.
 - (c) Develop provider application package(s) and contract specifications, including requirements for a research component in each contract, for distribution to the Area Agencies on Aging and service providers.
 - (d) Establish policies and procedures for service providers.
 - (e) Provide technical assistance to staff of the Area Agencies on Aging and service providers as requested.
 - (f) Evaluate Alzheimer's disease programs.
 - (g) Monitor services to assess quality of service delivery.
 - (h) Develop program reports.
 - (i) Maintain a resource library for staff development. Include training materials pertaining to Alzheimer's disease and a list of information and referral services throughout Florida.
 - (j) Provide access to training whenever possible.
 - (k) Provide staff support to assist the Alzheimer's Disease Advisory Committee in the performance of its duties.
 - (l) Perform contract management responsibilities according to the Financial Management of Older Americans Act Programs Manuals, HRSM 55-1, dated 1990, and HRSM 75-2, dated 1993, available in the Office of the Department Secretary and herein incorporated by reference.
 - (m) Establish guidelines and procedures for the award and allocation of funds received pursuant to Section 410.401(3), F.S., Note, into a Department administrative trust fund.
- (2) The Area Agency on Aging under contract with the Department shall be responsible for the planning and administration of respite and model day care services funded under the ADI and, in turn, shall contract with local service providers for the provision of these services. The Department may retain the budget authority to contract directly with service providers for the implementation of special projects when appropriate. Each Area Agency on Aging shall:
- (a) In conjunction with the Department, establish priorities, policy and procedures for administration and delivery of services, and include objectives for the Alzheimer's Disease Initiative in the area plan.
 - (b) Comply with State of Florida procedures regarding solicitation and execution of agreements with providers of services and found in the Financial Management of Older Americans Act Programs manuals, HRSM 55-1, dated 1990, and HRSM 75-2, dated 1993, available in the Office of the Department Secretary, and herein incorporated by reference.
 - (c) Review and critique applications to ensure completeness and accuracy of information, and assess the applicant's ability to provide required services and manage a subcontract.
 - (d) Assure that all service provider contracts include a requirement for an Alzheimer's disease research component and responsibility for coordination with other Alzheimer's Disease Initiative components.
 - (e) Assure that all client information and program reports, including reports of research efforts, are complete and accurate.
 - (f) Provide for staff development and training of provider staff.
 - (g) Assume contract management responsibilities.
 - (h) Assess fiscal management capabilities of service providers.
 - (i) Monitor service providers.
 - (j) Process payments to service providers.
 - (k) Provide technical assistance to service providers as requested or required.
 - (l) Establish procedures for appeals by clients and contract service providers.
 - (m) Ensure that grievance and appeals procedures are adhered to by service providers.
 - (n) Maintain coordination with the Memory Disorder Clinics, the Alzheimer's Disease Brain Bank, the Alzheimer's Disease Registry, and all other components of the ADI in the designated planning and service area as outlined in the Department of Elder Affairs Programs and Services Manual, dated July 1994 and revised November 1994, available in the Office of the Department Secretary and at each Area Agency on Aging, and incorporated herein by reference.
 - (o) Comply with all terms and conditions of the contract and guidelines specified in the Department of Elder Affairs Program and Services Manual, dated July 1994 and revised November 1994, available in the Office of the Department Secretary and at each Area Agency on Aging, and incorporated herein by reference.
 - (p) Make available reports submitted to the Department by the memory disorder clinics, the registry and the brain bank to other service providers in the designated planning and service area.

Specific Authority 410.401(3), 430.08 FS. Law Implemented 410.402(3)-(5) FS., Ch. 91-115, Laws of Florida, s. 10. History—New 3-28-95.

58D-1.006 Service Provider Responsibilities.

Each service provider shall:

- (1) Establish service priorities and coordinate the delivery of services to clients.
- (2) Employ competent and qualified staff to provide the services essential to the achievement of program goals and objectives.
- (3) Maintain the minimum staffing requirements established by the Department.

(4) Provide case management services as applicable and as specified in the Department of Elder Affairs Programs and Services Manual, dated July 1994 and revised November 1994, available in the Office of the Department Secretary and at each Area Agency on Aging, and incorporated herein by reference.

(5) Provide respite or model day care services, or the services of the memory disorder clinic, the registry or brain bank as specified in the Department of Elder Affairs Programs and Services Manual, dated July 1994 and revised November 1994, available in the Office of the Department Secretary and at each Area Agency on Aging, and incorporated herein by reference.

(6) Provide preservice and inservice training for staff and volunteers as specified in the Department of Elder Affairs Programs and Services Manual, dated July 1994 and revised November 1994, available in the Office of the Department Secretary and at each Area Agency on Aging, and incorporated herein by reference.

(7) Monitor subcontract providers to assure quality of service delivery.

(8) Make payments to subcontractors.

(9) Request contributions and ensure that contributions are only used to expand program services.

(10) Maximize the use of volunteers in service delivery.

(11) Develop and implement procedures for client appeals.

(12) Ensure that quality services are delivered to clients and caregivers.

(13) Maintain client and program records and provide reports as required by the Department of Elder Affairs Programs and Services Manual, dated July 1994 and revised November 1994, available in the Office of the Department Secretary and at each Area Agency on Aging, and incorporated herein by reference.

(14) Establish goals and objectives for the Alzheimer's Disease Initiative research component and submit reports as specified by the Department on research activities.

Specific Authority 410.401(3), 430.08 FS. Law Implemented 410.402(3)-(5), 410.403, 430.06(2) FS., Ch. 91-115, Laws of Florida, s. 10. History--New 3-28-95.

58D-1.007 Program Forms.

The following forms shall be used for programs regulated by this chapter, are hereby incorporated by reference, and are available in the Office of the Secretary and at each Area Agency on Aging:

(1) For purposes of assessment:

(a) DOEA Form 701A, Prioritization Form, dated July, 2000.

(b) DOEA Form 701B, Assessment Instrument, dated July, 2000.

(c) DOEA Form 701C, Congregate Meals Form, dated July, 2000.

(2) For purposes of completing forms listed in subsection (1): DOEA Form 701D, Assessment Instructions (701A, 701B, 701C), dated July, 2000.

(3) For purposes of documenting planned services of care: DOEA Forms 203A, Care Plan, and 203B, instructions dated July, 2001.

Specific Authority 430.08, 430.501-.503 FS. Law Implemented 430.501-.504 FS. History--New 8-20-00, Amended 8-6-01.

CHAPTER 58E-1 EMERGENCY HOME ENERGY ASSISTANCE FOR THE ELDERLY PROGRAM

- 58E-1.001 Purpose and Legal Base. (Repealed)
- 58E-1.002 Referral Services. (Repealed)
- 58E-1.003 Household Composition. (Repealed)
- 58E-1.004 Eligibility Factors Other Than Income. (Repealed)
- 58E-1.005 Determination of Eligibility Based on Income. (Repealed)
- 58E-1.006 Income. (Repealed)
- 58E-1.007 Verification. (Repealed)
- 58E-1.008 Program Administration. (Repealed)
- 58E-1.009 Eligible Activities. (Repealed)
- 58E-1.010 Ineligible Activities. (Repealed)
- 58E-1.011 Amount of Assistance. (Repealed)

CHAPTER 58H-1 HOME CARE FOR THE ELDERLY

58H-1.001	Purpose.
58H-1.002	Definitions.
58H-1.003	Administration.
58H-1.004	Access to the Program.
58H-1.005	Client Functional and Financial Eligibility.
58H-1.006	Caregiver Requirements.
58H-1.007	Dwelling Requirements.
58H-1.008	Appeal Proceedings.
58H-1.009	Program Forms.

58H-1.001 Purpose.

The Home Care for the Elderly Program rules encourage the provision of care for the elderly in family-type living arrangements in private homes as an alternative to and prevention of premature or inappropriate institutionalization by providing assistance through financial subsidies and support services to those individuals willing to provide care for frail elderly individuals in private homes.

Specific Authority 430.603 FS. Law Implemented 430.601-.606 FS. History—New 1-1-96.

58H-1.002 Definitions.

The following are in addition to definitions found in Sections 430.602 and 430.203(1) and (9), F.S.:

(1) **ACTIVITIES OF DAILY LIVING (ADL)** are functions and tasks for self care, such as ambulating, bathing, dressing, eating, grooming, and other personal care activities.

(2) **BASIC SUBSIDY** is a monthly payment made to the caregiver for support and health maintenance, to assist with the cost of housing, food, clothing, medical and dental services, and incidentals, not covered by Medicare, Medicaid and other insurance.

(3) **CARE PLAN** means a plan which specifies the ongoing services prescribed for a Home Care for the Elderly client to meet the needs identified in the comprehensive assessment. The care plan shall specify the estimated duration, desired frequency, problem statements, and scope of the services to be provided. The care plan shall identify the caregiver, provider agency, or other organization responsible for providing the service(s). The care plan shall include a listing of desired outcomes agreed to with the client and caregiver. The care plan shall be developed, signed and dated by the case manager, the client, and caregiver.

(4) **CAREGIVER** is an adult person(s), age 18 or above, who applies and is approved by the Lead Agency to provide care to elderly client(s) on a non-profit basis.

(5) **CASE MANAGEMENT** is a client centered series of activities which includes planning, arrangement for and coordination of community-based services for an eligible client. Case Management is a service which may be delivered in the absence of other services. Case Management activities include intake and referral, comprehensive assessment and reassessment, development of a care plan with planned client outcomes, assistance in helping clients to obtain community resources, follow-up contacts for the purpose of monitoring client progress to assure effective delivery of services, and travel time related to the client's case.

(6) **DWELLING** means a family-type private home that serves as the primary residence of the client or caregiver.

(7) **HOME CARE CLIENT** means an individual who meets all eligibility requirements for this program, and who without home care supportive services could require placement in an institution or nursing home.

(8) **SERVICE PROVIDER** means a Community Care for the Elderly Lead Agency that is awarded a contract to provide case management and other services under the Home Care for the Elderly Program.

(9) **SPECIAL SUBSIDY** means a flexible payment that has been pre-authorized by the Lead Agency Case Manager to purchase any specialized medical or health care services, supplies or equipment, which are required to maintain the health and well-being of the elderly person. This supplement is separate from and may be utilized in addition to the basic subsidy.

Specific Authority 430.603 FS. Law Implemented 430.601-.606 FS. History—New 1-1-96.

58H-1.003 Administration.

The Home Care for the Elderly Program shall be administered directly by the Department through an Area Agency on Aging located within a Planning and Service Area.

(1) The Department's responsibilities include:

(a) Coordinating statewide activities necessary to carry out the provisions of the Home Care for the Elderly law;

(b) Developing program policies and plans;

(c) Setting service standards and rates;

(d) Providing for program development and quality through monitoring, technical assistance, staff development and training, and evaluation activities; and

(e) Contracting with the Area Agency on Aging for provision of Home Care for the Elderly services.

(2) The Area Agency on Aging's responsibilities include:

(a) Administering the Home Care for the Elderly Program in accordance with the Department of Elder Affairs Programs and Services Manual, dated July 1994, revised January 1996, and the Division of Administration Policy Memorandum A0016, dated December 1995, available in the Office of the Department Secretary and at each Area Agency on Aging, and herein incorporated by reference;

(b) Administering the Home Care for the Elderly contracts with Community Care for the Elderly Lead Agencies;

(c) Contracting with the Lead Agency for provision of Home Care for the Elderly Case Management;

(d) Providing information regarding available subsidy funding;

(e) Providing technical assistance to Lead Agencies;

(f) Requiring Lead Agencies to annually submit the Service Provider Application, (DOEA Form 218, September 1994, revised October 1, 1995, available in the Office of the Secretary and herein incorporated by reference) for funding of current Lead Agency to provide Home Care for the Elderly;

(g) Providing the Department with review copies of applications;

(h) Monitoring Lead Agencies' programmatic and fiscal capabilities;

(i) Making Home Care for the Elderly basic and special subsidy payments after verification schedules have been reviewed;

(j) Reconciling client data input in Department's Client Information and Registration Tracking System from the Lead Agency and any fiscal verification schedules before making basic or special subsidy payments or Lead Agency Case Management payment;

(k) Compiling program statistics required by the Department;

(l) Providing for in-service training for Lead Agencies at least once a year;

(m) Having and implementing procedures and time frames for appeals regarding contracts for Lead Agencies and for appeals regarding denial, reduction or termination of services to clients pursuant to Rule 58H-1.008, F.A.C.; and,

(n) Hearing appeals not resolved at the Lead Agency.

(3) Lead Agency responsibilities include:

(a) Determining eligibility for Home Care for the Elderly Program for functionally impaired and financially eligible elderly;

(b) Providing case management;

(c) Coordinating services;

(d) Compiling program statistics as required by the Department;

(e) Determining basic and special subsidy payments to caregivers as required;

(f) Entering data on clients in Department's Client and Information Tracking System monthly;

(g) Providing for in-service training for staff including volunteers at least once a year;

(h) Accepting contributions, gifts and grants to carry out services;

(i) Maximizing use of volunteers to provide services to functionally impaired elderly persons;

(j) Having and implementing procedures and time frames for appeals regarding denial, reduction or termination of services to clients pursuant to Rule 58H-1.008, F.A.C.;

(k) Ensuring that quality services are delivered in a timely manner to eligible individuals; and,

(l) Maintaining client, fiscal and program records and provide reports as specified by the Department of Elder Affairs Programs and Services Manual, dated July 1994 and revised January 1996, and the Division of Administration Policy Memorandum A0016, dated December 1995, available in the Office of the Department Secretary and at each Area Agency on Aging, and herein incorporated by reference.

Specific Authority 430.603 FS. Law Implemented 430.60-.606 FS. History—New 1-1-96.

58H-1.004 Access to the Program.

(1) Requests for the Home Care for the Elderly Program services may be initiated by the potential home care client or caregiver on behalf of the client.

(2) The service provider shall not arrange for recruitment and matching of potential providers and recipients to facilitate admittance to the Home Care for the Elderly Program between two unrelated or unfamiliar parties.

(3) The application process shall include:

(a) Client assessment and determination of functional and financial eligibility.

(b) Caregiver eligibility, including an assessment of the home.

(4) The application process must be completed as specified by the Department's Programs and Services Manual.

Specific Authority 430.603 FS. Law Implemented 430.601-.606 FS. History—New 1-1-96.

58H-1.005 Client Functional and Financial Eligibility.

(1) To be eligible for the Home Care for the Elderly Program an applicant must:

(a) Be age 60 or older;

(b) Have completed on their behalf, an Intake and Comprehensive Uniform Client Assessment, DOEA Form 111A and B, Feb. 1992, for Home Care for the Elderly services;

(c) Meet the criteria for functional and financial eligibility set forth under subparagraphs 1. through 5. below.

1. Shall have been assessed and determined to be at risk of nursing home placement based on the comprehensive uniform client assessment.

2. Shall self declare their income and assets which cannot exceed the Institutional Care Program (ICP) limits used under Medicaid for eligibility for nursing home care or;

3. Shall be a recipient of Supplemental Security Income (SSI) or;

4. Shall be a recipient of Medicaid for the Aged or Disabled (Meds AD), or Qualified Medicare Beneficiary (QMB), or Special Low Income Medicare Beneficiary (SLMB) and

5. Shall have an approved caregiver who meets the caregiver requirements pursuant to Rule 58H-1.006, F.A.C., and the dwelling requirements pursuant to Rule 58H-1.007, F.A.C.

(2) Once eligibility has been determined, the caregiver and client will be notified of their eligibility status for the Home Care for the Elderly Program.

(a) A Care Plan specifying the services and the amount of monthly basic subsidy, and if authorized, special subsidy for which the client has been determined eligible, will be signed and dated by the caregiver, client and the case manager.

(b) Subsidy payment shall be based on the financial status of the client receiving care.

(3) If determined ineligible, the client and caregiver shall be notified of their right to an appeal.

Specific Authority 430.403 FS. Law Implemented 430.601-.606 FS. History—New 1-1-96.

58H-1.006 Caregiver Requirements.

(1) A caregiver in the Home Care for the Elderly Program shall:

(a) Be a mature adult, age 18 or above, capable of providing a family type living environment and willing to accept the responsibility for the social, physical and emotional needs of the home care client;

(b) Be a relative or friend who has been accepted by the client as surrogate family or is a responsible adult with whom the client has made an arrangement to provide home care services;

(c) Be physically present to provide supervision and to assist in arrangement of services for the client;

(d) Maintain the residential dwelling free of conditions that pose an immediate threat to the life, safety, health and well being of the home care client pursuant to Rule 58H-1.007, F.A.C.; and,

(e) Be without record of conviction of abuse, neglect or exploitation of an older person, adult or child; shall not have been the perpetrator in a confirmed report of abuse, neglect or exploitation of another person by the Abuse Registry or other investigation process; and shall be willing to sign a statement which certifies that they are without record of conviction or have not been a perpetrator in a proposed confirmed or confirmed report of abuse, neglect or exploitation of another person by the Abuse Registry or other investigative process and grants written authorization to the Lead Agency to check the Abuse Registry through the Florida Department of HRS. The Lead Agency may grant an exemption from this disqualification following the procedures outlined in the DOEA Programs and Services Manual.

Specific Authority 430.603 FS. Law Implemented 430.601-.606 FS. History—New 1-1-96.

58H-1.007 Dwelling Requirements.

(1) The dwelling must comply with safety, fire and sanitation standards as described in the Department's Programs and Services Manual, Chapter II-3, Client Assessment, Section G.

(2) When a home is determined not to meet the standards set forth for the Home Care Program, the applicant, client, or caregiver shall be notified in writing.

Specific Authority 430.603 FS. Law Implemented 430.601-.606 FS. History—New 1-1-96.

58H-1.008 Appeal Proceedings.

(1) Applicants shall be advised of the right to and the process of requesting an appeal. Appeals may be initiated in reference to application denial or any action which would terminate, suspend or reduce services received.

(2) Appeals must be reviewed and heard by the Lead Agency first.

(3) Written notification of the determination and right to an appeal shall be sent from the Lead Agency to the applicant.

(4) If resolution is not reached after an appeal hearing at the Lead Agency, the applicant may request the appeal be forwarded to the Area Agency on Aging.

(5) Upon request and receipt of the appeal from the Lead Agency, the Area Agency on Aging shall review and hear the appeal.

(6) The Area Agency on Aging shall provide written notification of determination to the applicant and the Lead Agency.

Specific Authority 430.603 FS. Law Implemented 430.601-.606 FS. History—New 1-1-96.

58H-1.009 Program Forms.

The following forms shall be used for programs regulated by this chapter, are hereby incorporated by reference, and are available in the Office of the Secretary and at each Area Agency on Aging:

(1) For purposes of assessment:

(a) DOEA Form 701A, Prioritization Form, dated July, 2000.

(b) DOEA Form 701B, Assessment Instrument, dated July, 2000.

(c) DOEA Form 701C, Congregate Meals Form, dated July, 2000.

(2) For purposes of completing forms listed in subsection (1): DOEA Form 701D, Assessment Instructions (701A, 701B, 701C), dated July, 2000.

(3) For purposes of documenting planned services of care: DOEA Forms 203A, Care Plan, and 203B, instructions dated July, 2001.

Specific Authority 430.08, 430.603 FS. Law Implemented 430.601-.608 FS. History--New 8-20-00, Amended 8-6-01.

58L LONG-TERM CARE OMBUDSMAN PROGRAM

CHAPTER 58L-1 LONG-TERM CARE OMBUDSMAN - CONFIDENTIALITY

58L-1.001 Confidentiality and Disclosure.

58L-1.001 Confidentiality and Disclosure.

Pursuant to Section 400.0077(5), F.S., the Department of Elder Affairs, in consultation with the Office of the State Long-Term Care Ombudsman and the State Long-Term Care Ombudsman Council, hereby adopt and incorporate by reference herein Sections 400.0077(1)-(4), F.S., Confidentiality, and Section 712(d) of Section 201 of the Older Americans Act of 1965, 42 USC 3058g, Disclosure, as policy and procedure for the confidentiality of and the disclosure by any ombudsman and all ombudsman councils of files maintained by the Office of the State Long-Term Care Ombudsman, the State Long-Term Care Ombudsman Council, their representatives and their employees, and their district or area councils, representatives and employees as established in Chapter 400, Part I, F.S.

Specific Authority 400.0077(5) FS. Law Implemented 400.0077 FS. History—New 7-25-95.

CHAPTER 58L-2 LONG-TERM CARE OMBUDSMAN CONFLICT OF INTEREST

58L-2.001	Definitions.
58L-2.003	Purpose.
58L-2.005	Prohibitions.
58L-2.007	Procedures.
58L-2.009	Removal of Existing Conflicts. (Repealed)

58L-2.001 Definitions.

(1) All terms used in this chapter and not defined as follows are derived from and defined in Chapter 400, Part I, Florida Statutes, Long-Term Care Facilities; Ombudsman Program.

(2) "Conflict of Interest" as used in this chapter means:

(a) Having a direct involvement in the licensing or certification of a long-term care facility or of a provider of a long-term care service;

(b) Having an ownership or investment interest (represented by equity, debt, or other financial relationship) in a long-term care facility or a long-term care service;

(c) Employed by, or participating in the management of, a long-term care facility in the state of Florida; or

(d) Receiving, or having the right to receive, directly or indirectly, remuneration (in cash or in kind) under a compensation arrangement with an owner or operator of a long-term care facility.

(3) "Department" means the Department of Elder Affairs.

(4) "District" means a geographic area in which the programs of the department are administered and services are delivered.

(5) "Immediate family" means father, mother, husband, wife, son, daughter, brother, sister, or an individual residing in the household.

(6) "Indirectly" means receiving remuneration from a company providing a service to a long-term care facility, such as a consulting pharmacist.

(7) "Long-term care facility" means a nursing home facility, assisted living facility, or an adult family care home as those terms are defined in Chapter 400, Florida Statutes.

(8) "Long-term care services" means services provided by a long-term care facility, home health agency, adult day care center, hospice, intermediate care facility, home for special services, or transitional living facility as those terms are defined in Chapter 400, Florida Statutes, guardians or representative payees for individuals, other than an immediate family member, who are residents of long-term care facilities.

(9) "Program" refers to the Office of the State Long-Term Care Ombudsman, its representatives and employees, the State Long-Term Care Ombudsman Council, and the district or local Long-Term Care Ombudsman councils as established in Chapter 400, Part I, Florida Statutes.

Specific Authority 400.0065(3), 400.0067(4), 400.0069(10), 400.0087(1) FS. Law Implemented 400.0065(1)(a), (3), 400.0067(4), 400.0069(4), (10), 400.0087(1), (3) FS. History—New 6-27-94, Amended 10-20-03.

58L-2.003 Purpose.

The purpose of this chapter is to ensure that every effort is made to minimize any perception of conflicts of interest affecting the ombudsman program. It is promulgated to further the ability of ombudsmen to independently and fully carry out their functions, including the public perception of the program's independence. The Department shall vigorously monitor the program in this regard to ensure that the program has the objectivity and independence required to qualify it for federal funding under the Older Americans Act of 1965, as amended, and to comply with and implement all state laws, rules and regulations relating to the program.

Specific Authority 400.0087(3) FS. Law Implemented 400.0065(3), 400.0067(5), 400.0069(10), 400.0087(1), (3) FS. History—New 6-27-94.

58L-2.005 Prohibitions.

(1) No officer, employee or representative of the Office of State Long-Term Care Ombudsman or of the State or District Long-Term Care Ombudsman Councils, nor any member of the immediate family of such officer, employee, or representative, may have a conflict of interest.

(2) No employee of the Agency for Health Care Administration, the Department of Business and Professional Regulation, the Department of Children and Family Services, the Department of Health, the Department of Elder Affairs, or medical director of a long-term care facility shall be a member of a District Long-Term Care Ombudsman Council.

Specific Authority 400.0065(3), 400.0067(4), 400.0069(10), 400.0087(1), (3) FS. Law Implemented 400.0065(3), 400.0067(4), 400.0069(4), (10), 400.0087(1), (3) FS. History—New 6-27-94, Amended 10-20-03.

58L-2.007 Procedures.

(1) Upon appointment, reappointment, employment or affiliation with the program, each appointee, officer, employee or representative shall sign the Conflict of Interest Certification Form, SLTCO Form #1, dated July 2003, incorporated herein by reference and available at the Office of the State Long-Term Care Ombudsman,

(a) Acknowledging receipt and understanding of these rules, and

(b) Stating that such individual has no conflict of interest as defined by these rules. The Office of the State Long-Term Care Ombudsman will keep the statements on file at its headquarters.

(2) Deliberate failure to disclose any conflict of interest, whether upon affiliation with the program or which subsequently develops, or the violation of any prohibition set forth in this chapter shall be considered sufficient grounds for

(a) A recommendation to the State Long-Term Care Ombudsman that the appointee, officer, representative, or affiliate be immediately disqualified pursuant to Section 400.0091, Florida Statutes, to carry out ombudsman activities on behalf of the office of the State or District Long-Term Care Ombudsman Council;

(b) Termination for cause of any such employee.

(3) The State Long-Term Care Ombudsman shall receive and review all violations and allegations of conflict of interest and shall, in consultation with the State Long-Term Care Ombudsman Council and the Department,

(a) Request that the person resign from the council; or

(b) Request that the person remove the conflict. If the person does not resign from the council or remove the conflict, the State Long-Term Care Ombudsman shall disqualify the employee, officer, or representative of the Office or of the State or District Long-Term Care Ombudsman Councils from carrying out any authorized ombudsman duty or responsibility.

Specific Authority 400.0065(3), 400.0067(4), 400.0069(10), 400.0087(1) FS. Law Implemented 400.0065(3), 400.0067(4), 400.0069(10), 400.0087(1), 400.0091 FS. History—New 6-27-94, Amended 10-20-03.

CHAPTER 58L-3 LONG-TERM CARE OMBUDSMAN - ACCESS

58L-3.001 Access.

58L-3.001 Access.

(1) Pursuant to Section 400.0081(3), F.S., the Department of Elder Affairs, in consultation with the Office of the State Long-Term Care Ombudsman and the State Long-Term Care Ombudsman Council, hereby adopts and incorporates by reference herein ss. 400.0081(1) and (2), F.S., Access, and Section 712(b) of Section 201 of the Older Americans Act of 1965, 42 USC 3058g, Procedures for Access, as policy and procedure to ensure access by the Office of the State Long-Term Care Ombudsman, the State Long-Term Care Ombudsman Council, the district or area long-term care councils, and their representatives as established in Chapter 400, Part I, F.S., to long-term care facilities, facility records, facility licensure and certification records maintained by the state, residents, and resident records.

(2) The following terms within the above-incorporated statutory references are defined as follows:

(a) "Access" means the ability pursuant to Section 400.0073, F.S., to investigate. The denial of access constitutes an interference in the performance of official duties and is a violation of Section 400.0083, F.S.

(b) "Administrative records, policies, and documents to which the residents, or the general public, have access" means records maintained by the facility which concern, involve, or pertain to the residents' diet, comfort, health, safety, or welfare.

(c) "Social records" means non-medical resident records and includes resident financial records.

Specific Authority 400.0081(3) FS. Law Implemented 400.0081 FS. History—New 7-31-95.

CHAPTER 58M-2 GUARDIANSHIP

58M-2.001 Professional Guardian Registration.

58M-2.001 Professional Guardian Registration.

(1) A person required to register with the Statewide Public Guardianship Office as a professional guardian must complete the Statewide Public Guardianship Office Guardian Registration Form, Form No. 100-1, with all requested information provided as specified in Section 744.1083, F.S. The Guardian Registration Form, Form No. 100-1, effective January 2003, is incorporated herein by reference and available at the Statewide Public Guardianship Office, MHF 104, University of South Florida Campus, 13301 Bruce B. Downs Blvd., Tampa, FL 33612.

(a) The Guardian Registration Form shall be signed by the professional guardian (or corporate officer if the professional guardian is a corporation) or an individual designated in writing by the professional guardian or corporate officer, who is at least 18 years old.

(b) The completed registration form shall be delivered to the Statewide Public Guardianship Office by hand-delivery or mail. No facsimile submissions will be accepted. The completed registration form shall be delivered to the Statewide Public Guardianship Office, MHF 104, University of South Florida Campus, 13301 Bruce B. Downs Blvd., Tampa, FL 33612.

(c) The following documentation, or signed verification from the Clerk of Court that documentation is on file, shall be attached to and delivered with the completed registration form:

1. Credit History for Guardian and Employees with Fiduciary Responsibilities as specified in Section 744.3135, F.S.
2. Criminal History for Guardian and Employees with Fiduciary Responsibilities as specified in Section 744.3135, F.S.
3. Documentation of Bonding as specified in Section 744.1085, F.S.
4. Documentation that Educational Requirements have been met as specified in Section 744.1085(3), F.S.

(d) An employee with fiduciary responsibilities means an individual who holds a position of trust and confidence to the ward or who is obligated by virtue of the guardianship relationship to protect and preserve the wards property and who has access to the ward's personal identifiable information, except persons performing services on behalf of a ward pursuant to a contract with the guardian or on a volunteer basis.

(e) Guardian-delegated financial or personal guardianship services shall not include persons or organizations that provide financial or personal guardianship services on behalf of a ward, pursuant to a contract or on a volunteer basis.

(f) Any social security number obtained by the Statewide Public Guardianship Office in association with the registration of professional guardians is confidential and exempt in accordance with Section 119.07(1) and s. 24(a), Art. 1 of the Florida Constitution.

(2) The Guardian Registration Form, shall be submitted annually on or before January 1 of each year to the Statewide Public Guardianship Office with a \$25.00 registration fee. The registration fee shall be in the form of a personal check, money order or cashier's check made payable to the Statewide Public Guardianship Office.

(3) The Statewide Public Guardianship Office will respond within 30 days of receiving a completed Guardian Registration Form, any supporting documentation and the registration fee. The Statewide Public Guardianship Office will issue a certificate of registration to the professional guardian within 30 days of the receipt of the Statewide Public Guardianship Office, Guardian Registration Form, registration fee, and all registration materials.

Specific Authority 744.1083(2), (4) FS. Law Implemented 744.1083(2), (4), 744.1085, 744.3135 FS. History—New 5-4-03.