

Florida

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Licensure Term Assisted Living Facilities

Opening Statement The Agency for Health Care Administration (the Agency), Bureau of Health Facility Regulation, licenses assisted living facilities (ALFs) which can range in size from one resident to several hundred. Facilities are licensed to provide routine personal care services, and can have additional specialty licenses for more specific services.

The purpose of specialty licenses is to allow individuals to "age in place" in familiar surroundings that can adequately and safely meet their continuing health care needs. Specialty licenses include limited nursing services (LNS), extended congregate care (ECC), and limited mental health (LMH) services. To obtain a specialty license, facilities must meet additional requirements, including those related to staffing and staff training.

Legislative and Regulatory Update SB 184 transfers powers, duties, and functions of Department of Elder Affairs (DOEA) relating to assisted living facilities, hospices, adult day care centers, and adult family care homes to the Agency for Health Care Administration (AHCA). This bill becomes effective July 1, 2019.

Assisted living regulations were most recently revised in 2018 to implement changes from the 2015 legislative session. Effective March 26, 2018, a regulatory update requires each assisted living facility to prepare a detailed plan to serve as a supplement to its Comprehensive Emergency Management Plan, to address emergency environmental control in the event of the loss of primary electrical power in that assisted living facility. The emergency environmental control plan must include specific information, which is detailed in 59A-36.02536 of the Florida Administrative Code. ALFs licensed prior to March 26, 2018 are required to submit their plans to the local emergency management agency for review within 30 days of March 26, 2018. Assisted living facility plans previously

submitted and approved pursuant to the previous emergency rule (58AER17-1, F.A.C.) require resubmission only if changes are made to the plan. After March 26, 2018, each new ALF must submit the emergency environmental control plan prior to obtaining a license, and existing facilities undergoing any additions, modifications, alterations, refurbishment, renovations or reconstruction that require modification of its systems or equipment affecting the facility's compliance with this new rule are required to amend their plan and submit it to the local emergency management agency for review and approval.

SB 622 was signed into law on March 21, 2018. Among other things, this legislation amended the definition of assisted living facility, revised language regarding entities required to be licensed, and amended language regarding unlicensed operation of assisted living facilities. It also: added that a new service or accommodation added to, or implemented in, a resident's contract for which the resident was not previously charged does not require a 30-day written notice of a rate increase; updated requirements for the resident bill of rights; updated right to entry and inspection language; updated language regarding inspection of facility records; and updated the length of time by which a new administrator has to meet training requirements.

See NCAL's 2016 State Regulatory Review for a summary of Florida Statute 429 (2015), which made a number of changes that affect assisted living and speciality licenses. Regulations were also revised in 2018 to reflect these changes and to address the safety and quality of services and care provided to residents within assisted living facilities. Florida Statute 633 was also updated regarding Fire Life Safety and the role of the local authorities having jurisdiction and State Fire Marshal's office. Additionally, the Agency expanded the data collected from provider applications to capture additional consumer related facility profile information. The collected data is then provided on Florida Health Finders link: <http://www.floridahealthfinder.gov/index.html>.

Definition

An assisted living facility is designed to provide personal care services in the least restrictive and most home-like environment. These facilities can range in size from one resident to several hundred and may offer a wide variety of personal and nursing services designed specifically to meet an individual's personal needs.

An assisted living facility is any building or buildings, section or distinct part of a building, private home, boarding home, home for

the aged, or other residential facility, regardless of whether operated for profit, which through its ownership and management provides housing, meals, and one or more personal services for a period exceeding 24 hours to one or more adults who are not relatives of the owner or administrator.

Disclosure Items

The facility must make available to potential residents a written statement(s) that includes, but is not limited to, the following information:

- (1) The facility's admission and continued residency criteria;
- (2) The daily, weekly or monthly charge to reside in the facility and the services, supplies, and accommodations provided by the facility for that rate;
- (3) Personal care services that the facility is prepared to provide to residents and additional costs to the resident, if any;
- (4) Nursing services that the facility is prepared to provide to residents and additional costs to the resident, if any;
- (5) Food service and the ability of the facility to accommodate special diets;
- (6) The availability of transportation and additional costs to the resident, if any;
- (7) Any other special services that are provided by the facility and additional cost if any;
- (8) Social and leisure activities generally offered by the facility; and
- (9) Any services that the facility does not provide but will arrange for the resident and additional cost, if any.

Facility Scope of Care

An assisted living facility must provide care and services appropriate to the needs of residents accepted for admission to the facility. A facility must provide personal supervision and supervision of or assistance with activities of daily living (ADLs) as appropriate, provide social and leisure activities, assist residents making appointments, and provide or arrange for transportation. Facilities may employ or contract with a nurse to provide specified services.

Facilities may hold one of three special licenses: an extended congregate care license allows facilities to provide more extensive

ADL assistance and nursing services to frail residents; a limited nursing services license allows nurses to provide services under their state practice act as long as the resident meets admission and continued residency requirements; a limited mental health license allows facilities to serve low-income, chronically mentally ill residents.

Third Party Scope of Care

When residents require specified care or services from a third party provider, the facility administrator or designee must take action to assist in facilitating the provision of those services and coordinate with the provider to meet the specific service goals, unless residents decline the assistance. Providers are required to have policies and procedures to ensure the coordination of care with third party providers.

Admission and Retention Policy

An individual must meet the following minimum criteria in order to be admitted to a facility holding a standard, limited nursing services, or limited mental health license: be at least 18 years of age; be free from any signs and symptoms of any communicable disease that is likely to be transmitted to other residents or staff (an individual who has human immunodeficiency virus (HIV) infection may be admitted to a facility, provided that the individual would otherwise be eligible for admission); be able to perform the ADLs, with supervision or assistance if necessary; be able to transfer, with assistance if necessary; be capable of taking medication, by either self-administration, assistance with self-administration, or administration of medication; not require 24-hour licensed professional mental health treatment; not be bedridden; and not have any stage 3 or 4 pressure sores. A resident requiring care of a stage 2 pressure sore may be admitted in specified circumstances. Residents admitted to standard, limited nursing services, or limited mental health licensed facilities may not require certain nursing services, such as but not limited to assistance with tube feeding or management of post-surgical drainage tubes and wound vacuum devices. See regulations for additional criteria.

A resident must be discharged if he or she is no longer able to meet the admission criteria or, in some instances, is bedridden for more than seven days. It is the facility administrator's responsibility to determine a resident is appropriate for admission and remains appropriate for continued residency during the resident's stay. The facility is required to have an admission policy and the facility must be prepared and able to provide or arrange for services appropriate or necessary to meet resident needs. A resident must receive a face-to-face medical exam every three years to determine appropriate continued residency.

Resident Assessment

Within 60 days prior to residents' admission, but no later than 30 days after admission, residents shall be examined by a physician or advanced registered nurse practitioner who shall provide the administrator with a medical examination report. Medical examinations conducted up to 30 days after a resident's admission to the facility must be recorded on the Resident Health Assessment form (AHCA Form 1823). For those residents examined 60 days prior to admission, any information required that is not contained in the medical examination report conducted must be obtained by the administrator within 30 days after admission using the AHCA Form 1823, which may be accessed at the following link:
<https://www.flrules.org/Gateway/reference.asp?No=Ref-04006>.

Medication Management

For facilities that provide medication administration, a staff member licensed to administer medications must be available to administer medications in accordance with a health care provider's order or prescription label. Unlicensed staff may not assist with the contents of pill organizers. Unlicensed staff may provide hands-on assistance with self-administered medications. In order for an unlicensed staff person to provide assistance with the self-administration of medication, he/she must be 18 years of age or older and complete six hours of medication assisting training upon hire and then two hours of medication assisting training annually. This training must include specified topics and be taught by an registered nurse, licensed pharmacist, or department staff. A licensed health care provider's order is required when a licensed nurse provides assistance with self-administration or administration of medications, including over-the-counter products. Assisted living facilities may not require a resident to have a physician's order for over-the-counter medication, unless a nurse is involved in assistance with self-administration or administration.

Square Feet Requirements

Private resident units must provide a minimum of 80 square feet of usable floor space and multiple-occupancy resident rooms must provide a minimum of 60 square feet per resident. An additional minimum of 35 square feet of living and dining space per resident is required.

Residents Allowed Per Room

Prior to October 17, 1999, a maximum of four persons were permitted for multiple occupancy. Resident bedrooms designated for multiple occupancy in facilities newly licensed or renovated six months after October 17, 1999, shall have a maximum occupancy of two persons.

Bathroom Requirements

Shared bathrooms are permitted and a facility must provide one toilet and sink per six residents and one bathing facility per eight residents.

Life Safety

Effective March 26, 2018, a regulatory update requires each assisted living facility to prepare a detailed plan to serve as a supplement to its Comprehensive Emergency Management Plan, to address emergency environmental control in the event of the loss of primary electrical power in that assisted living facility. Additional information on this update can be found in the Regulatory and Legislative Updates section.

Unit and Staffing Requirements for Serving Persons with Dementia

Facilities that advertise special care for persons with Alzheimer's disease or related disorders (special care units) must have a physical environment that provides for the safety and welfare of residents; offer activities specifically designed for these residents; have 24-hour staffing availability; and employ staff who have completed an eight-hour approved training course and four hours of continuing education per year.

Staff who interact on a daily basis with residents with Alzheimer's disease or related disorders, but do not provide direct care to such residents, and staff who provide direct care to residents with Alzheimer's disease or related disorders are required to obtain 4 hours of initial training within 3 months of employment. Initial training, entitled "Alzheimer's Disease and Related Disorders Level I Training," must address the following subject areas: understanding Alzheimer's disease and related disorders; characteristics of Alzheimer's disease; communicating with residents with Alzheimer's disease; family issues; resident environment; and ethical issues.

Facility staff who provide direct care to residents with Alzheimer's disease or related disorders must obtain an additional 4 hours of training, entitled "Alzheimer's Disease and Related Disorders Level II Training," within 9 months of employment. Training must address the following subject areas: behavior management; assistance with ADLs, activities for residents, stress management for the care giver; and, medical information. Staff in special care units must also complete four hours of continuing education per year.

Staffing Requirements

Every facility must be under the supervision of an administrator who is responsible for the operation and maintenance of the facility. Staffing must be sufficient to meet residents' needs. Minimum staffing ratio requirements are specified in regulations and vary depending upon the number of residents (e.g., a total of 375 staff hours would be required each week at a facility with 46-55 residents.). At least one employee certified in first aid must be present at all times in facilities with 17 or more residents. All staff are required to undergo a background screening that includes a national FBI fingerprint check, captured digitally.

**Administrator
Education/Training**

Administrators must have a high school diploma or GED. Additionally, administrators and managers must successfully complete the assisted living facility core training requirements within 90 days of the date of becoming a facility administrator or manager. The required training must be taught by a department-registered, qualified trainer, include at least 26 hours of training, and cover at least the following topics:

- (1) State law and rules relating to assisted living facilities;
- (2) Resident rights and identifying and reporting abuse, neglect, and exploitation;
- (3) Special needs of elderly persons, persons with mental illness, and persons with developmental disabilities and how to meet those needs;
- (4) Nutrition and food service, including acceptable sanitation practices for preparing, storing, and serving food;
- (5) Medication management, recordkeeping, and proper techniques for assisting residents with self-administered medication;
- (6) Fire safety requirements, including fire evacuation drill procedures and other emergency procedures; and
- (7) Care of persons with Alzheimer's disease and related disorders.

Administrators must score at least 75% on a department-established, state-proctored competency test to indicate successful completion of the training requirements. . A new facility administrator must complete the required training and education, including the competency test, within 90 days after date of employment.

Administrators who attended core training prior to July 1, 1997 and managers who attended the core training program prior to April 20, 1998 shall not be required to take the competency test. Administrators licensed as nursing home administrators in accordance with chapter 468, Part II, F.S., are exempt from this requirement.

Administrators must complete 12 hours of continuing education every two years on topics related to assisted living.

Staff Education/Training

The state requires a variety of training depending on the position and type of service or care provided. Effective October 1, 2015, each new assisted living facility employee who has not previously completed core training must attend a pre-service orientation provided by the facility before interacting with residents. The pre-service orientation must be at least two hours in duration and cover topics that help the employee provide responsible care and respond to the needs of facility residents. Upon completion, the employee and the administrator of the facility must sign a statement that the employee completed the required preservice orientation. The facility must keep the signed statement in the employee's personnel record.

**Entity Approving
CE Program**

None specified.

**Medicaid Policy and
Reimbursement**

Florida has three 1915(c) waivers that cover Medicaid services in assisted living: Long-Term Care Managed Care, Developmental Disabilities Individual Budgeting Waiver, and Traumatic Brain and Spinal Cord Injury.

Citations

Agency for Health Care Administration. Assisted Living Facility. The following website contains links to all applicable statutes, regulations, and other information about assisted living facilities. http://www.ahca.myflorida.com/MCHQ/Health_Facility_Regulation/Assisted_Living/alf.shtml

Florida Administrative Code and Florida Administrative Register. Chapter: Assisted Living Facilities (updated July 1, 2019) <https://www.flrules.org/gateway/ChapterHome.asp?Chapter=59A-36>

Agency for Health Care Administration. Medicaid website. <http://ahca.myflorida.com/Medicaid/index.shtml>

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