

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 1 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

**ST - A0000 - Initial Comments**

**Title** Initial Comments

**Type** Memo Tag

**Regulation Definition**

**Interpretive Guideline**

These guidelines are meant solely to provide guidance to surveyors in the survey process.

**ST - A0001 - Definitions**

**Title** Definitions

**Type** Rule

429.02; 429.256; 59A-36.002

**Regulation Definition**

**Interpretive Guideline**

429.02 Definitions.-When used in this part, the term:

(1) "Activities of daily living" means functions and tasks for self-care, including ambulation, bathing, dressing, eating, grooming, and toileting, and other similar tasks.

(2) "Administrator" means an individual at least 21 years of age who is responsible for the operation and maintenance of an assisted living facility.

(3) "Agency" means the Agency for Health Care Administration.

(4) "Aging in place" or "age in place" means the process of providing increased or adjusted services to a person to compensate for the physical or mental decline that may occur with the aging process, in order to maximize the person's dignity and independence and permit them to remain in a familiar, noninstitutional, residential environment for as long as possible. Such services may be provided by facility staff,

The Assisted Living Unit (ALU) telephone number located in paragraph (2) was changed to 850-412-4304 when AHCA transitioned to the Voice Over IP (VOIP) telephone system.

Activities of daily living includes other similar tasks according to 429.02 FS

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 2 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

volunteers, family, or friends, or through contractual arrangements with a third party.

(5) "Assisted living facility" means 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 or 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.

(6) "Assistive device" means any device designed or adapted to help a resident perform an action, a task, an activity of daily living, or a transfer; prevent a fall; or recover from a fall. The term does not include a total body lift or a motorized sit-to-stand lift, with the exception of a chair lift or recliner lift that a resident is able to operate independently.

(7) "Chemical restraint" means a pharmacologic drug that physically limits, restricts, or deprives an individual of movement or mobility, and is used for discipline or convenience and not required for the treatment of medical symptoms.

(8) "Community living support plan" means a written document prepared by a mental health resident and the resident's mental health case manager in consultation with the administrator of an assisted living facility with a limited mental health license or the administrator's designee. A copy must be provided to the administrator. The plan must include information about the supports, services, and special needs of the resident which enable the resident to live in the assisted living facility and a method by which facility staff can recognize and respond to the signs and symptoms particular to that resident which indicate the need for professional services.

(9) "Cooperative agreement" means a written statement of understanding between a mental health care provider and the administrator of the assisted living facility with a limited

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 3 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

mental health license in which a mental health resident is living. The agreement must specify directions for accessing emergency and after-hours care for the mental health resident. A single cooperative agreement may service all mental health residents who are clients of the same mental health care provider.

(10) "Department" means the Department of Elderly Affairs.

(11) "Emergency" means a situation, physical condition, or method of operation which presents imminent danger of death or serious physical or mental harm to facility residents.

(12) "Extended congregate care" means acts beyond those authorized in subsection (18) which may be performed pursuant to part I of chapter 464 by persons licensed thereunder while carrying out their professional duties, and other supportive services that may be specified by rule. The purpose of such services is to enable residents to age in place in a residential environment despite mental or physical limitations that might otherwise disqualify them from residency in a facility licensed under this part.

(13) "Guardian" means a person to whom the law has entrusted the custody and control of the person or property, or both, of a person who has been legally adjudged incapacitated.

(14) "Limited nursing services" means acts that may be performed by a person licensed under part I of chapter 464. Limited nursing services shall be for persons who meet the admission criteria established by the agency for assisted living facilities but are not complex enough to require 24-hour nursing supervision and may include such services as the application and care of routine dressings and care of casts, braces, and splints.

(15) "Managed risk" means the process by which the facility staff discuss the service plan and the needs of the resident with the resident and, if applicable, the resident's representative or designee or the resident's surrogate, guardian, or attorney in fact, in such a way that the consequences of a decision,

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 4 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

including any inherent risk, are explained to all parties and reviewed periodically in conjunction with the service plan, taking into account changes in the resident's status and the ability of the facility to respond accordingly.

(16) "Mental health resident" means an individual who receives social security disability income due to a mental disorder as determined by the Social Security Administration or receives supplemental security income due to a mental disorder as determined by the Social Security Administration and receives optional state supplementation.

(17) "Office" has the same meaning as in s. 400.0060.

(18) "Personal services" means direct physical assistance with or supervision of the activities of daily living, the self-administration of medication, or other similar services that the agency may define by rule. The term may not be construed to mean the provision of medical, nursing, dental, or mental health services.

(19) "Physical restraint" means a device that physically limits, restricts, or deprives an individual of movement or mobility, including any device that is not specifically manufactured as a restraint but is altered, arranged, or otherwise used for that purpose. The term does not include any device that the resident chooses to use and is able to remove or avoid independently, or any bandage material used for the purpose of binding a wound or injury.

(20) "Relative" means an individual who is the father, mother, stepfather, stepmother, son, daughter, brother, sister, grandmother, grandfather, great-grandmother, great-grandfather, grandson, granddaughter, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister of an owner or administrator.

(21) "Resident" means a person 18 years of age or older, residing in and receiving care from a facility.

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 5 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

(22) "Resident's representative or designee" means a person other than the owner, or an agent or employee of the facility, designated in writing by the resident, if legally competent, to receive notice of changes in the contract executed pursuant to s. 429.24; to receive notice of and to participate in meetings between the resident and the facility owner, administrator, or staff concerning the rights of the resident; to assist the resident in contacting the State Long-Term Care Ombudsman Program or local ombudsman council if the resident has a complaint against the facility; or to bring legal action on behalf of the resident pursuant to s. 429.29.

(23) "Service plan" means a written plan, developed and agreed upon by the resident and, if applicable, the resident's representative or designee or the resident's surrogate, guardian, or attorney in fact, if any, and the administrator or designee representing the facility, which addresses the unique physical and psychosocial needs, abilities, and personal preferences of each resident receiving extended congregate care services. The plan shall include a brief written description, in easily understood language, of what services shall be provided, who shall provide the services, when the services shall be rendered, and the purposes and benefits of the services.

(24) "Shared responsibility" means exploring the options available to a resident within a facility and the risks involved with each option when making decisions pertaining to the resident's abilities, preferences, and service needs, thereby enabling the resident and, if applicable, the resident's representative or designee, or the resident's surrogate, guardian, or attorney in fact, and the facility to develop a service plan which best meets the resident's needs and seeks to improve the resident's quality of life.

(25) "Supervision" means reminding residents to engage in activities of daily living and the self-administration of medication, and, when necessary, observing or providing

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

*Printed 10/07/2021*

Page 6 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

verbal cuing to residents while they perform these activities.

(26) "Supplemental security income," Title XVI of the Social Security Act, means a program through which the Federal Government guarantees a minimum monthly income to every person who is age 65 or older, or disabled, or blind and meets the income and asset requirements.

(27) "Supportive services" means services designed to encourage and assist aged persons or adults with disabilities to remain in the least restrictive living environment and to maintain their independence as long as possible.

(28) "Twenty-four-hour nursing supervision" means services that are ordered by a physician for a resident whose condition requires the supervision of a physician and continued monitoring of vital signs and physical status. Such services shall be: medically complex enough to require constant supervision, assessment, planning, or intervention by a nurse; required to be performed by or under the direct supervision of licensed nursing personnel or other professional personnel for safe and effective performance; required on a daily basis; and consistent with the nature and severity of the resident's condition or the disease state or stage.

429.256 Assistance with self-administration of medication.-

(1) For the purposes of this section, the term:

(a) "Informed consent" means advising the resident, or the resident's surrogate, guardian, or attorney in fact, that an assisted living facility is not required to have a licensed nurse on staff, that the resident may be receiving assistance with self-administration of medication from an unlicensed person, and that such assistance, if provided by an unlicensed person, will or will not be overseen by a licensed nurse.

(b) "Unlicensed person" means an individual not currently licensed to practice nursing or medicine who is employed by or under contract to an assisted living facility and who has received training with respect to assisting with the

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 7 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

self-administration of medication in an assisted living facility as provided under s. 429.52 prior to providing such assistance as described in this section.

59A-36.002 Definitions.

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

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

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

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

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

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

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 8 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

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

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

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

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

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

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

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

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

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



**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 9 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

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

(10) "Certified Nursing Assistant (CNA)" means an individual certified under Chapter 464, Part II, F.S.

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

(12) "Deficiency" means an instance of non-compliance with the requirements of Part II of Chapter 408, F.S., Part I of Chapter 429, F.S., rule chapter 59A-35, F.A.C., and this rule chapter.

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

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

(15) "Elopement" means an occurrence in which a resident leaves a facility without following facility policy and procedures.

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

(17) "Glucose Meter" or "glucometer" means a medical device that determines the approximate concentration of glucose in

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 10 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

the blood.

(18) "Health Care Provider" means a health care practitioner licensed under Chapter 458, 459, or 464, F.S., as a physician, physician assistant, or advanced practice registered nurse; or an individual, entity, or organization licensed by the state to provide health care services.

(19) "Licensed Dietitian or Nutritionist" means a dietitian or nutritionist licensed under Chapter 468, Part X, F.S.

(20) "Local fire safety authority" means the authority having jurisdiction as defined in rule Chapter 69A-40, F.A.C.

(21) "Long-term Care Ombudsman Program (LTCOP)" means the long-term care ombudsman program established under Chapter 400, Part I, F.S.

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

(23) "Mental Disorder" for the purposes of identifying a mental health resident, means schizophrenia and other psychotic disorders; affective disorders; anxiety related disorders; and personality and dissociative disorders.

However, mental disorder does not include residents with a primary diagnosis of Alzheimer's disease, other dementias, or mental retardation.

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

(25) "Mental Health Case Manager" means a case manager

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 11 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

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.

(26) "Nurse" means a licensed practical nurse (LPN), registered nurse (RN), or advanced registered nurse (APRN) licensed under Chapter 464, F.S.

(27) "Nursing Assessment" means a written review of information collected from observation and interaction with a resident, including the resident's record and any other relevant sources of information, the analysis of the information, and recommendations for modification of the resident's care, if warranted. The assessment must contain the signature and credential initials of the advanced practice registered nurse or registered nurse who conducted the assessment.

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

(29) "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.

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

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 12 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

operate the facility.

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

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

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

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

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

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

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

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

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 13 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

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

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

**ST - A0002 - Licensure - Unlicensed Facilities**

**Title** Licensure - Unlicensed Facilities

**Type** Rule

429.08 FS

**Regulation Definition**

429.08 Unlicensed facilities; referral of person for residency to unlicensed facility; penalties.-

(1)(a) This section applies to the unlicensed operation of an assisted living facility in addition to the requirements of part II of chapter 408.

(b) Any person who owns, rents, or otherwise maintains a building or property used as an unlicensed assisted living facility commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Each day of continued operation is a separate offense.

(c) Any person found guilty of violating paragraph (a) a second or subsequent time commits a felony of the second degree, punishable as provided under s. 775.082, s. 775.083, or s. 775.084. Each day of continued operation is a separate offense.

**Interpretive Guideline**

Surveyor Probe:

Review for current license. Ensure that residents that have been referred to another facility were transferred to a licensed facility.

429.04 Facilities to be licensed; exemptions.-

(2)(d) Any person who provides housing, meals, and one or more personal services on a 24-hour basis in the person's own home to not more than two adults who do not receive optional state supplementation. The person who provides the housing, meals, and personal services must own or rent the home and must have established the home as his or her permanent residence. For purposes of this paragraph, any person holding a homestead exemption at an address other than that at which the person asserts this exemption is presumed to not have established permanent residence. This exemption does not apply to a person or entity that previously held a license issued by the agency which was revoked or for which renewal was denied by final order of the agency, or when the person or entity voluntarily relinquished the license during agency enforcement proceedings.

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 14 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

(d) In addition to the requirements of s. 408.812, any person who owns, operates, or maintains an unlicensed assisted living facility after receiving notice from the agency commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Each day of continued operation is a separate offense.

(e) The agency shall publish a list, by county, of licensed assisted living facilities. This information may be provided electronically or through the agency's Internet site.

(2) It is unlawful to knowingly refer a person for residency to an unlicensed assisted living facility; to an assisted living facility the license of which is under denial or has been suspended or revoked; or to an assisted living facility that has a moratorium pursuant to part II of chapter 408.

(a) Any health care practitioner, as defined in s. 456.001, who is aware of the operation of an unlicensed facility shall report that facility to the agency. Failure to report a facility that the practitioner knows or has reasonable cause to suspect is unlicensed shall be reported to the practitioner's licensing board.

(b) Any provider as defined in s. 408.803 which knowingly discharges a patient or client to an unlicensed facility is subject to sanction by the agency.

(c) Any employee of the agency or department, or the Department of Children and Families, who knowingly refers a person for residency to an unlicensed facility; to a facility the license of which is under denial or has been suspended or revoked; or to a facility that has a moratorium pursuant to part II of chapter 408 is subject to disciplinary action by the agency or department, or the Department of Children and Families.

(d) The employer of any person who is under contract with the agency or department, or the Department of Children and Families, and who knowingly refers a person for residency to an unlicensed facility; to a facility the license of which is

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 15 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

under denial or has been suspended or revoked; or to a facility that has a moratorium pursuant to part II of chapter 408 shall be fined and required to prepare a corrective action plan designed to prevent such referrals.

**ST - A0003 - Licensure - Change of Ownership (CHOW)**

**Title** Licensure - Change of Ownership (CHOW)

**Type** Rule

59A-36.003(2) FAC; 429.12(1) FS

**Regulation Definition**

59A-36.003  
(2) CHANGE OF OWNERSHIP. In addition to the requirements for a change of ownership contained in Chapter 408, Part II, F.S., Section 429.12, F.S., and rule Chapter 59A-35, F.A.C., the following provisions relating to resident funds apply pursuant to Section 429.27, F.S.:

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

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

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

**Interpretive Guideline**

Surveyor Probe:

Has there been a change in ownership?  
If so, review records for documentation of notification and statements to the residents.

**Agency for Health Care Administration  
ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 16 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

credited.

429.12 Sale or transfer of ownership of a facility.-It is the intent of the Legislature to protect the rights of the residents of an assisted living facility when the facility is sold or the ownership thereof is transferred. Therefore, in addition to the requirements of part II of chapter 408, whenever a facility is sold or the ownership thereof is transferred, including leasing:

(1) The transferee shall notify the residents, in writing, of the change of ownership within 7 days after receipt of the new license.

**ST - A0004 - Licensure - Requirements**

**Title** Licensure - Requirements

**Type** Rule

59A-36.004 FAC

**Regulation Definition**

59A-36.004 License Requirements.

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

(2) CHANGE IN USE OF SPACE REQUIRING AGENCY CENTRAL OFFICE APPROVAL. A change in the use of space that increases or decreases a facility's capacity must not be made without prior approval from the Agency Central Office. Approval must be based on the compliance with the physical plant standards provided in Rule 59A-36.014, F.A.C., as well as documentation of compliance with applicable fire safety and sanitation inspection requirements referenced in Rule 59A-36.005, F.A.C.

(3) CHANGE IN USE OF SPACE REQUIRING AGENCY FIELD OFFICE APPROVAL. A change in the use of space that involves converting an area to resident use, which has not

**Interpretive Guideline**

Surveyor Probe:

Review that the services being provided are those that have been licensed.



**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 17 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

previously been inspected for such use, must not be made without prior approval from the Agency Field Office.

Approval must be based on compliance with the physical plant standards provided in Rule 59A-36.014, F.A.C., as well as documentation of compliance with applicable fire safety and sanitation inspection standards referenced in Rule 59A-36.005, F.A.C.

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

(5) **PROOF OF INSPECTIONS.** A copy of the annual fire safety and sanitation inspections described in Rule 59A-36.005, F.A.C., must be submitted annually to the Agency Central Office. The annual inspections must be submitted no later than 30 calendar days after the inspections. Failure to comply with this requirement may result in administrative action pursuant to Chapter 408, part II, and Section 429.14, F.S., and rule Chapter 59A-35, F.A.C.

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

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 18 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

**ST - A0005 - Licensure - Exemptions**

**Title** Licensure - Exemptions

**Type** Rule

429.04

**Regulation Definition**

429.04 Facilities to be licensed; exemptions.-

(1) For the administration of this part, facilities to be licensed by the agency shall include all assisted living facilities as defined in this part.

(2) The following are exempt from licensure under this part:

(a) Any facility, institution, or other place operated by the Federal Government or any agency of the Federal Government.

(b) Any facility or part of a facility licensed by the Agency for Persons with Disabilities under chapter 393, a mental health facility licensed under chapter 394, a hospital licensed under chapter 395, a nursing home licensed under part II of chapter 400, an inpatient hospice licensed under part IV of chapter 400, a home for special services licensed under part V of chapter 400, an intermediate care facility licensed under part VIII of chapter 400, or a transitional living facility licensed under part XI of chapter 400.

(c) Any facility licensed as an adult family-care home under part II.

(d) Any person who provides housing, meals, and one or more personal services on a 24-hour basis in the person's own home to not more than two adults who do not receive optional state supplementation. The person who provides the housing, meals, and personal services must own or rent the home and must have established the home as his or her permanent residence. For purposes of this paragraph, any person holding a homestead exemption at an address other than that at which

**Interpretive Guideline**

Also see tag 0002

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 19 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

the person asserts this exemption is presumed to not have established permanent residence. This exemption does not apply to a person or entity that previously held a license issued by the agency which was revoked or for which renewal was denied by final order of the agency, or when the person or entity voluntarily relinquished the license during agency enforcement proceedings.

(e) Any home or facility approved by the United States Department of Veterans Affairs as a residential care home wherein care is provided exclusively to three or fewer veterans.

(f) Any facility that has been incorporated in this state for 50 years or more on or before July 1, 1983, and the board of directors of which is nominated or elected by the residents, until the facility is sold or its ownership is transferred; or any facility, with improvements or additions thereto, which has existed and operated continuously in this state for 60 years or more on or before July 1, 1989, is directly or indirectly owned and operated by a nationally recognized fraternal organization, is not open to the public, and accepts only its own members and their spouses as residents.

(g) Any facility certified under chapter 651, or a retirement community, may provide services authorized under this part or part III of chapter 400 to its residents who live in single-family homes, duplexes, quadruplexes, or apartments located on the campus without obtaining a license to operate an assisted living facility if residential units within such buildings are used by residents who do not require staff supervision for that portion of the day when personal services are not being delivered and the owner obtains a home health license to provide such services. However, any building or distinct part of a building on the campus that is designated for persons who receive personal services and require supervision beyond that which is available while such services are being rendered must be licensed in accordance with this part. If a facility provides

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 20 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

personal services to residents who do not otherwise require supervision and the owner is not licensed as a home health agency, the buildings or distinct parts of buildings where such services are rendered must be licensed under this part. A resident of a facility that obtains a home health license may contract with a home health agency of his or her choice, provided that the home health agency provides liability insurance and workers' compensation coverage for its employees. Facilities covered by this exemption may establish policies that give residents the option of contracting for services and care beyond that which is provided by the facility to enable them to age in place. For purposes of this section, a retirement community consists of a facility licensed under this part or under part II of chapter 400, and apartments designed for independent living located on the same campus.

(h) Any residential unit for independent living which is located within a facility certified under chapter 651, or any residential unit which is colocated with a nursing home licensed under part II of chapter 400 or colocated with a facility licensed under this part in which services are provided through an outpatient clinic or a nursing home on an outpatient basis.

(3) Upon agency investigation of unlicensed activity, any person or entity that claims that it is exempt under this section must provide documentation substantiating entitlement to the exemption.

**ST - A0006 - Licensure - Rebates Prohibited; Penalties**

**Title** Licensure - Rebates Prohibited; Penalties

**Type** Rule

429.195 FS

**Regulation Definition**

429.195 Rebates prohibited; penalties.-

**Interpretive Guideline**

Surveyor Probes:

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 21 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

(1) An assisted living facility licensed under this part may not contract or promise to pay or receive any commission, bonus, kickback, or rebate or engage in any split-fee arrangement in any form whatsoever with any person, health care provider, or health care facility as provided under s. 817.505.

(2) This section does not apply to:

(a) An individual employed by the assisted living facility, or with whom the facility contracts to provide marketing services for the facility, if the individual clearly indicates that he or she works with or for the facility.

(b) Payments by an assisted living facility to a referral service that provides information, consultation, or referrals to consumers to assist them in finding appropriate care or housing options for seniors or disabled adults if the referred consumers are not Medicaid recipients.

(c) A resident of an assisted living facility who refers a friend, family members, or other individuals with whom the resident has a personal relationship to the assisted living facility, in which case the assisted living facility may provide a monetary reward to the resident for making such referral.

(3) A violation of this section is patient brokering and is punishable as provided in s. 817.505.

Review contracted arrangement if kickbacks are suspected.

**ST - A0007 - Admissions - Criteria**

**Title** Admissions - Criteria

**Type** Rule

59A-36.006(1) FAC

**Regulation Definition**

(1) **ADMISSION CRITERIA.**

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

1. Be at least 18 years of age.

**Interpretive Guideline**

Surveyor Probe:

Make observations of residents and conduct interviews with residents and/or family members to confirm appropriateness of admission. Review a sample of resident records for compliance as necessary to validate concerns. Verify the specialty license of the facility.

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 22 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

2. Be free from signs and symptoms of any communicable disease that is likely to be transmitted to other residents or staff. An individual who has human immunodeficiency virus (HIV) infection may be admitted to a facility, provided that the individual would otherwise be eligible for admission according to this rule.
3. Be able to perform the activities of daily living, with supervision or assistance if necessary.
4. Be able to transfer, with assistance if necessary. The assistance of more than one person is permitted.
5. Be capable of taking medication, by either self-administration, assistance with self-administration, or administration of medication.
  - a. If the resident needs assistance with self-administration of medication, the facility must inform the resident of the professional qualifications of facility staff who will be providing this assistance. If unlicensed staff will be providing assistance with self-administration of medication, the facility must obtain written informed consent from the resident or the resident's surrogate, guardian, or attorney-in-fact.
  - b. The facility may accept a resident who requires the administration of medication if the facility employs a nurse who will provide this service or the resident, or the resident's legal representative, designee, surrogate, guardian, or attorney-in-fact, contracts with a third party licensed to provide this service to the resident.
6. Not have any special dietary needs that cannot be met by the facility.
7. Not be a danger to self or others as determined by a health care practitioner, or a mental health practitioner licensed under Chapter 490 or 491, F.S.
8. Not require 24-hour licensed professional mental health treatment.
9. Not be bedridden, unless the resident is receiving licensed hospice services pursuant to Section 429.26(1)(c), F.S.;

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 23 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

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

a. The resident either:

(I) Resides in a standard or limited nursing services licensed facility and contracts directly with a licensed home health agency or a nurse to provide care; or

(II) Resides in a limited nursing services licensed facility and care is provided by the facility pursuant to a plan of care issued by a health care practitioner;

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

c. If the resident's condition fails to improve within 30 days as documented by a health care practitioner, the resident must be discharged from the facility.

11. Residents admitted to standard, limited nursing services, or limited mental health licensed facilities may not require any of the following nursing services:

a. Artificial airway management of any kind, except that of continuous positive airway pressure may be provided through the use of a CPAP or bipap machine;

b. Assistance with tube feeding,

c. Monitoring of blood gases,

d. Management of post-surgical drainage tubes and wound vacuum devices;

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

f. Treatment of surgical incisions or wounds, unless the surgical incision or wound and the underlying condition have been stabilized and a plan of care has been developed. The plan of care must be maintained in the resident's record.

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

a. Hemodialysis and peritoneal dialysis performed in the

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 24 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

facility;

b. Intravenous therapy performed in the facility.

13. Not require 24-hour nursing supervision, unless the resident is receiving licensed hospice services pursuant to Section 429.26(1)(c), F.S.;

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

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

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

b. The medical examination report required by Section 429.26, F.S.;

c. The facility's admission policy and the services the facility is prepared to provide or arrange in order to meet resident needs. Such services may not exceed the scope of the facility's license unless specified elsewhere in this rule; and,

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

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

(c) Nursing staff may not provide training to unlicensed persons, as defined in Section 429.256(1)(b), F.S., to perform skilled nursing services, and may not delegate the nursing services described in this section to certified nursing assistants or unlicensed persons. This provision does not restrict a resident or a resident's representative from contracting with a



**Agency for Health Care Administration  
ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 25 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

licensed third party to provide the assistance if the facility is agreeable to such an arrangement and the resident otherwise meets the criteria for admission and continued residency in a facility with a standard license.

(d) Notwithstanding any other provisions of this rule, an individual enrolled in and receiving licensed hospice services may be admitted to an assisted living facility pursuant to Section 429.26(1)(d), F.S.

(e) Resident admission criteria for facilities holding an extended congregate care license are described in Rule 59A-36.021, F.A.C.

**ST - A0008 - Admissions - Health Assessment**

**Title** Admissions - Health Assessment

**Type** Rule

429.26(5-6) FS; 59A-36.006(2) FAC

**Regulation Definition**

429.26

(5) Each resident must have been examined by a licensed physician, a licensed physician assistant, or a licensed advanced practice registered nurse within 60 days before admission to the facility or within 30 days after admission to the facility, except as provided in s. 429.07. The information from the medical examination must be recorded on the practitioner's form or on a form adopted by agency rule. The medical examination form, signed only by the practitioner, must be submitted to the owner or administrator of the facility, who shall use the information contained therein to assist in the determination of the appropriateness of the resident's admission to or continued residency in the facility. The medical examination form may only be used to record the practitioner's direct observation of the patient at the time of examination and must include the patient's medical history.

**Interpretive Guideline**

Surveyor Probes:

Make observations of residents and conduct interviews with residents and/or family members to confirm appropriateness of assessment.

Review a sample of resident records for compliance to ensure the health assessments are completed correctly, accurately reflect the needs and services of the residents and that the correct form is used.

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 26 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

Such form does not guarantee admission to, continued residency in, or the delivery of services at the facility and must be used only as an informative tool to assist in the determination of the appropriateness of the resident's admission to or continued residency in the facility. The medical examination form, reflecting the resident's condition on the date the examination is performed, becomes a permanent part of the facility's record of the resident and must be made available to the agency during inspection or upon request. An assessment that has been completed through the Comprehensive Assessment and Review for Long-Term Care Services (CARES) Program fulfills the requirements for a medical examination under this subsection and s. 429.07(3)(b)6.

(6) Any resident accepted in a facility and placed by the Department of Children and Families must have been examined by medical personnel within 30 days before placement in the facility. The examination must include an assessment of the appropriateness of placement in a facility. The findings of this examination must be recorded on the examination form provided by the agency. The completed form must accompany the resident and be submitted to the facility owner or administrator. Additionally, in the case of a mental health resident, the Department of Children and Families must provide documentation that the individual has been assessed by a psychiatrist, clinical psychologist, clinical social worker, or psychiatric nurse, or an individual who is supervised by one of these professionals, and determined to be appropriate to reside in an assisted living facility. The documentation must be in the facility within 30 days after the mental health resident has been admitted to the facility. An evaluation completed upon discharge from a state mental hospital meets the requirements of this subsection related to appropriateness for placement as a mental health resident

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 27 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

provided that it was completed within 90 days prior to admission to the facility. The Department of Children and Families shall provide to the facility administrator any information about the resident which would help the administrator meet his or her responsibilities under subsection (1). Further, Department of Children and Families personnel shall explain to the facility operator any special needs of the resident and advise the operator whom to call should problems arise. The Department of Children and Families shall advise and assist the facility administrator when the special needs of residents who are recipients of optional state supplementation require such assistance.

59A-36.006

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

(a) A medical examination completed within 60 days before or within 30 days after the individual's admission to a facility pursuant to Section 429.26(5), F.S. The examination must address the following:

1. The physical and mental status of the resident, including the identification of any health-related problems and functional limitations,
2. An evaluation of whether the individual will require supervision or assistance with the activities of daily living,
3. Any nursing or therapy services required by the individual,
4. Any special diet required by the individual,
5. A list of current medications prescribed, and whether the individual will require any assistance with the administration of medication,
6. Whether the individual has signs or symptoms of Tuberculosis, Methicillin Resistant Staphylococcus Aureus, Scabies or any other communicable disease, which are likely

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 28 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

to be transmitted to other residents or staff,

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

8. The date of the examination, and the name, signature, address, telephone number, and license number of the examining health care practitioner.

(b) When a health care practitioner conducts a medical examination, the examination must be recorded on the practitioner's form or on AHCA Form 1823, Resident Health Assessment for Assisted Living Facilities, April 2021, which is incorporated by reference and available online at: <http://www.flrules.org/Gateway/reference.asp?No=Ref-13531>. Faxed or electronic copies of the completed form are acceptable. If AHCA Form 1823 is used, the form must be completed as instructed.

1. If the health care practitioner's form does not include all the examination items on AHCA Form 1823 or if AHCA Form 1823 is not completed fully, then the omitted items may be obtained by the administrator or designee either orally or in writing from the health care practitioner. The missing or omitted information must be obtained and documented in the resident's record within 30 days after the resident's admission to the facility.

2. Omitted or missing information received orally must include the name of the health care practitioner, the name and signature of the administrator or designee recording the information, and the date the information was provided.

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

(d) An assessment that has been conducted through the Comprehensive, Assessment, Review and Evaluation for

**Agency for Health Care Administration  
ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 29 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

Long-Term Care Services (CARES) program may be substituted for the medical examination requirements of Section 429.26, F.S. and this rule.

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

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

**ST - A0009 - Admissions - Admission Package**

**Title** Admissions - Admission Package

**Type** Rule

59A-36.006(3) FAC; 400.0078(2)

**Regulation Definition**

(3) ADMISSION PACKAGE.

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

**Interpretive Guideline**

Surveyor Probe:

Review an admission package as necessary for compliance determination.

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 30 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

meets this requirement.

1. The facility's admission and continued residency criteria;
2. The daily, weekly or monthly charge to reside in the facility and the services, supplies, and accommodations provided by the facility for that rate;
3. Personal care services that the facility is prepared to provide to residents and additional costs to the resident, if any;
4. Nursing services that the facility is prepared to provide to residents and additional costs to the resident, if any;
5. Food service and the ability of the facility to accommodate special diets;
6. The availability of transportation and additional costs to the resident, if any;
7. Any other special services that are provided by the facility and additional cost if any;
8. Social and leisure activities generally offered by the facility;
9. Any services that the facility does not provide but will arrange for the resident and additional cost, if any;
10. The facility rules and regulations that residents must follow as described in Rule 59A-36.007, F.A.C.;
11. The facility policy concerning Do Not Resuscitate Orders pursuant to Section 429.255, F.S., and Rule 59A-36.009, F.A.C., and Advance Directives pursuant to Chapter 765, F.S.;
12. If the facility is licensed to provide extended congregate care, the facility's residency criteria for residents receiving extended congregate care services. The facility must also provide a description of the additional personal, supportive, and nursing services provided by the facility including additional costs and any limitations on where extended congregate care residents may reside based on the policies and procedures described in Rule 59A-36.021, F.A.C.;
13. If the facility advertises that it provides special care for individuals with Alzheimer's disease and related disorders, a written description of those special services as required in Section 429.177, F.S.; and,

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 31 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

14. The facility's resident elopement response policies and procedures.

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

1. A copy of the resident's contract that meets the requirements of Rule 59A-36.018, F.A.C.,
2. A copy of the facility statement described in paragraph (a) of this subsection, if one has not already been provided,
3. A copy of the resident's bill of rights as required by Rule 59A-36.007, F.A.C.; and,
4. A Long-Term Care Ombudsman Program brochure that includes the telephone number and address of the district office.

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

400.0078

(2) Upon admission to a long-term care facility, each resident or representative of a resident must receive information regarding:

- (a) The purpose of the State Long-Term Care Ombudsman Program.
- (b) The statewide toll-free telephone number and e-mail address for receiving complaints.
- (c) Information that retaliatory action cannot be taken against a resident for presenting grievances or for exercising any other resident right.
- (d) Other relevant information regarding how to contact representatives of the State Long-Term Care Ombudsman Program.

**Agency for Health Care Administration  
ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 32 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

**ST - A0010 - Admissions - Continued Residency**

**Title** Admissions - Continued Residency

**Type** Rule

429.26(1-3) FS; 59A-36.006(4) FAC

**Regulation Definition**

429.26 Appropriateness of placements; examinations of residents.-

(1) The owner or administrator of a facility is responsible for determining the appropriateness of admission of an individual to the facility and for determining the continued appropriateness of residence of an individual in the facility. A determination must be based upon an evaluation of the strengths, needs, and preferences of the resident, a medical examination, the care and services offered or arranged for by the facility in accordance with facility policy, and any limitations in law or rule related to admission criteria or continued residency for the type of license held by the facility under this part. The following criteria apply to the determination of appropriateness for admission and continued residency of an individual in a facility:

- (a) A facility may admit or retain a resident who receives a health care service or treatment that is designed to be provided within a private residential setting if all requirements for providing that service or treatment are met by the facility or a third party.
- (b) A facility may admit or retain a resident who requires the use of assistive devices.
- (c) A facility may admit or retain an individual receiving hospice services if the arrangement is agreed to by the facility and the resident, additional care is provided by a licensed hospice, and the resident is under the care of a physician who agrees that the physical needs of the resident can be met at the

**Interpretive Guideline**

Surveyor Probe:

Make observations of residents on tour, interview residents and/or family members for information as to the appropriateness of continued residency. Interview residents, family members, facility staff and third party providers for information. If necessary, review documentation of the face-to-face medical examination.

Review records for a sample of residents on hospice for compliance with the requirements for an interdisciplinary plan of care.

Does the facility employ a physician, physician assistant or nurse practitioner? If so, do they have any financial interest in the facility?



**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 33 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

facility. The resident must have a plan of care which delineates how the facility and the hospice will meet the scheduled and unscheduled needs of the resident, including, if applicable, staffing for nursing care.

(d)1. Except for a resident who is receiving hospice services as provided in paragraph (c), a facility may not admit or retain a resident who is bedridden or who requires 24-hour nursing supervision. For purposes of this paragraph, the term "bedridden" means that a resident is confined to a bed because of the inability to:

- a. Move, turn, or reposition without total physical assistance;
- b. Transfer to a chair or wheelchair without total physical assistance; or
- c. Sit safely in a chair or wheelchair without personal assistance or a physical restraint.

2. A resident may continue to reside in a facility if, during residency, he or she is bedridden for no more than 7 consecutive days.

3. If a facility is licensed to provide extended congregate care, a resident may continue to reside in a facility if, during residency, he or she is bedridden for no more than 14 consecutive days.

(2) A resident may not be moved from one facility to another without consultation with and agreement from the resident or, if applicable, the resident's representative or designee or the resident's family, guardian, surrogate, or attorney in fact. In the case of a resident who has been placed by the department or the Department of Children and Families, the administrator must notify the appropriate contact person in the applicable department.

(3) A physician, physician assistant, or advanced practice registered nurse who is employed by an assisted living facility to provide an initial examination for admission purposes may

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

not have financial interests in the facility.

59A-36.006

(4) CONTINUED RESIDENCY. Except as follows in paragraphs (a) through (c) of this subsection, criteria for continued residency in any licensed facility must be the same as the criteria for admission. As part of the continued residency criteria, a resident must have a face-to-face medical examination by a health care practitioner at least every 3 years after the initial assessment, or after a significant change, whichever comes first. A significant change is defined in Rule 59A-36.002, F.A.C. The results of the examination must be recorded on the practitioner's form or on AHCA Form 1823, which is incorporated by reference in paragraph (2)(b) of this rule and must be completed in accordance with that paragraph. Exceptions to the requirement to meet the criteria for continued residency are:

(a) The resident may be bedridden for no more than 7 consecutive days, unless the resident is receiving licensed hospice services pursuant to Section 429.26(1)(c), F.S.

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

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

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

1. The resident qualifies for, is admitted to, and consents to receive services from a licensed hospice that coordinates and

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 35 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

ensures the provision of any additional care and services that the resident may need;

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

3. A licensed hospice, in consultation with the facility, develops and implements an interdisciplinary care plan that specifies the services being provided by hospice and those being provided by the facility; and,

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

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

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

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

(g) Continued residency criteria for facilities holding an extended congregate care license are described in Rule 59A-36.021, F.A.C.

**ST - A0011 - Admissions - Discharge**

**Title** Admissions - Discharge

**Type** Rule

59A-36.006(5) FAC

**Regulation Definition**

(5) DISCHARGE. If the resident no longer meets the criteria for continued residency, or the facility is unable to meet the

**Interpretive Guideline**

Ask for a list of residents who were discharged to a higher level of care. Review a sample of the records to ensure

**Agency for Health Care Administration  
ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 36 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

resident's needs, as determined by the facility administrator or health care practitioner, the resident must be discharged in accordance with Section 429.28, F.S.

appropriate discharge procedures were followed.

**ST - A0025 - Resident Care - Supervision**

**Title** Resident Care - Supervision

**Type** Rule

429.26(7) FS; 59A-36.007(1) FAC

**Regulation Definition**

429.26  
(7) The facility shall notify a licensed physician when a resident exhibits signs of dementia or cognitive impairment or has a change of condition in order to rule out the presence of an underlying physiological condition that may be contributing to such dementia or impairment. The notification must occur within 30 days after the acknowledgment of such signs by facility staff. If an underlying condition is determined to exist, the facility must notify the resident's representative or designee of the need for health care services and must assist in making appointments for the necessary care and services to treat the condition. If the resident does not have a representative or designee or if the resident's representative or designee cannot be located or is unresponsive, the facility shall arrange with the appropriate health care provider for the necessary care and services to treat the condition.

59A-36.007 Resident Care Standards.

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

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

(a) Monitoring of the quantity and quality of resident diets in

**Interpretive Guideline**

Surveyor Probe:

Observe residents' care and services, interview residents and/or family members to confirm their satisfaction with their care. Review a sample of records as necessary to confirm compliance concerns.

Review records for documentation of required notifications

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 37 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

accordance with Rule 59A-36.012, F.A.C.

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

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

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

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

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

**ST - A0026 - Resident Care - Social & Leisure Activities**

**Title** Resident Care - Social & Leisure Activities

**Type** Rule

59A-36.007(2) FAC

**Regulation Definition**

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

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

**Interpretive Guideline**

Surveyor Probe:

Make observations of residents.

Interview residents and/or family members to confirm that their interests are being considered.

Review the facility's activity schedule to confirm compliance.

**Agency for Health Care Administration  
ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 38 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

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

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

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

**ST - A0027 - Resident Care - Arrangement for Health Care**

**Title** Resident Care - Arrangement for Health Care

**Type** Rule

59A-36.007(3) FAC

**Regulation Definition**

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

(a) Assist residents in making appointments and remind residents about scheduled appointments for medical, dental,

**Interpretive Guideline**

Surveyor Probe:

Interview residents and family members regarding the assistance that the facility has provided for medical appointments.

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 39 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

nursing, or mental health services.

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

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

**ST - A0028 - Resident Care - Activities of Daily Living**

**Title** Resident Care - Activities of Daily Living

**Type** Rule

59A-36.007(4) FAC

**Regulation Definition**

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

**Interpretive Guideline**

Surveyor Probe:

Observe and interview residents and/or family members regarding ADL assistance. Also interview staff members related to the level of assistance required by the residents.

**ST - A0029 - Resident Care - Nursing Services**

**Title** Resident Care - Nursing Services

**Type** Rule

429.26(4) FS

**Regulation Definition**

429.26

(4) Persons licensed under part I of chapter 464 who are employed by or under contract with a facility shall, on a routine basis or at least monthly, perform a nursing assessment of the residents for whom they are providing nursing services

**Interpretive Guideline**

Surveyor Probe:

Review personnel records as needed to verify the facility has an employed or contracted nurse.

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 40 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

ordered by a physician, except administration of medication, and shall document such assessment, including any substantial changes in a resident's status which may necessitate relocation to a nursing home, hospital, or specialized health care facility. Such records shall be maintained in the facility for inspection by the agency and shall be forwarded to the resident's case manager, if applicable.

**ST - A0030 - Resident Care - Rights & Facility Procedures**

**Title** Resident Care - Rights & Facility Procedures

**Type** Rule

59A-36.007(5) FAC; 429.28(1-2) FS 429.27

**Regulation Definition**

59A-36.007

(5) RESIDENT RIGHTS AND FACILITY PROCEDURES.

(a) A copy of the Resident Bill of Rights as described in Section 429.28, F.S., or a summary provided by the Long-Term Care Ombudsman Program must be posted in full view in a freely accessible resident area, and included in the admission package provided pursuant to Rule 59A-36.006, F.A.C.

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

(c) The telephone number for lodging complaints against a facility or facility staff must be posted in full view in a common area accessible to all residents. The telephone numbers are: the Long-Term Care Ombudsman Program, 1(888)831-0404; Disability Rights Florida, 1(800)342-0823; the Agency Consumer Hotline 1(888)419-3456, and the

**Interpretive Guideline**

Surveyor Probe:

Conduct resident and family interviews to verify compliance with residents' rights.



**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 41 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

statewide toll-free telephone number of the Florida Abuse Hotline, 1(800)96-ABUSE or 1(800)962-2873. The telephone numbers must be posted in close proximity to a telephone accessible by residents and the text must be a minimum of 14-point font.

(d) The facility must have a written statement of its house rules and procedures that must be included in the admission package provided pursuant to Rule 59A-36.006, F.A.C. The rules and procedures must at a minimum address the facility's policies regarding:

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

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

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

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 42 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

each floor of each building where residents reside.

429.28 Resident bill of rights.-

(1) No resident of a facility shall be deprived of any civil or legal rights, benefits, or privileges guaranteed by law, the Constitution of the State of Florida, or the Constitution of the United States as a resident of a facility. Every resident of a facility shall have the right to:

- (a) Live in a safe and decent living environment, free from abuse and neglect.
- (b) Be treated with consideration and respect and with due recognition of personal dignity, individuality, and the need for privacy.
- (c) Retain and use his or her own clothes and other personal property in his or her immediate living quarters, so as to maintain individuality and personal dignity, except when the facility can demonstrate that such would be unsafe, impractical, or an infringement upon the rights of other residents.
- (d) Unrestricted private communication, including receiving and sending unopened correspondence, access to a telephone, and visiting with any person of his or her choice, at any time between the hours of 9 a.m. and 9 p.m. at a minimum. Upon request, the facility shall make provisions to extend visiting hours for caregivers and out-of-town guests, and in other similar situations.
- (e) Freedom to participate in and benefit from community services and activities and to pursue the highest possible level of independence, autonomy, and interaction within the community.
- (f) Manage his or her financial affairs unless the resident or, if applicable, the resident's representative, designee, surrogate, guardian, or attorney in fact authorizes the administrator of the facility to provide safekeeping for funds as provided in s.

429.27.

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 43 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

(g) Share a room with his or her spouse if both are residents of the facility.

(h) Reasonable opportunity for regular exercise several times a week and to be outdoors at regular and frequent intervals except when prevented by inclement weather.

(i) Exercise civil and religious liberties, including the right to independent personal decisions. No religious beliefs or practices, nor any attendance at religious services, shall be imposed upon any resident.

(j) Assistance with obtaining access to adequate and appropriate health care. For purposes of this paragraph, the term "adequate and appropriate health care" means the management of medications, assistance in making appointments for health care services, the provision of or arrangement of transportation to health care appointments, and the performance of health care services in accordance with s. 429.255 which are consistent with established and recognized standards within the community.

(k) At least 45 days' notice of relocation or termination of residency from the facility unless, for medical reasons, the resident is certified by a physician to require an emergency relocation to a facility providing a more skilled level of care or the resident engages in a pattern of conduct that is harmful or offensive to other residents. In the case of a resident who has been adjudicated mentally incapacitated, the guardian shall be given at least 45 days' notice of a nonemergency relocation or residency termination. Reasons for relocation must be set forth in writing and provided to the resident or the resident's legal representative. The notice must state that the resident may contact the State Long-Term Care Ombudsman Program for assistance with relocation and must include the statewide toll-free telephone number of the program. In order for a facility to terminate the residency of an individual without notice as provided herein, the facility shall show good cause in a court of competent jurisdiction.

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 44 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

(1) Present grievances and recommend changes in policies, procedures, and services to the staff of the facility, governing officials, or any other person without restraint, interference, coercion, discrimination, or reprisal. Each facility shall establish a grievance procedure to facilitate the residents' exercise of this right. This right includes access to ombudsman volunteers and advocates and the right to be a member of, to be active in, and to associate with advocacy or special interest groups.

(2) The administrator of a facility shall ensure that a written notice of the rights, obligations, and prohibitions set forth in this part is posted in a prominent place in each facility and read or explained to residents who cannot read. The notice must include the statewide toll-free telephone number and e-mail address of the State Long-Term Care Ombudsman Program and the telephone number of the local ombudsman council, the Elder Abuse Hotline operated by the Department of Children and Families, and, if applicable, Disability Rights Florida, where complaints may be lodged. The notice must state that a complaint made to the Office of State Long-Term Care Ombudsman or a local long-term care ombudsman council, the names and identities of the residents involved in the complaint, and the identity of complainants are kept confidential pursuant to s. 400.0077 and that retaliatory action cannot be taken against a resident for presenting grievances or for exercising any other resident right. The facility must ensure a resident's access to a telephone to call the State Long-Term Care Ombudsman Program or local ombudsman council, the Elder Abuse Hotline operated by the Department of Children and Families, and Disability Rights Florida.

429.27 Property and personal affairs of residents.-

(1)(a) A resident shall be given the option of using his or her own belongings, as space permits; choosing his or her roommate; and, whenever possible, unless the resident is

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 45 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

adjudicated incompetent or incapacitated under state law, managing his or her own affairs.

(b) The admission of a resident to a facility and his or her presence therein shall not confer on the facility or its owner, administrator, employees, or representatives any authority to manage, use, or dispose of any property of the resident; nor shall such admission or presence confer on any of such persons any authority or responsibility for the personal affairs of the resident, except that which may be necessary for the safe management of the facility or for the safety of the resident.

**ST - A0031 - Resident Care - Third Party Services**

**Title** Resident Care - Third Party Services

**Type** Rule

59A-36.007(6) FAC

**Regulation Definition**

(6) THIRD PARTY SERVICES.

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

(b) When residents require or arrange for services from a third party provider, the facility administrator or designee must allow for the receipt of those services, provided that the

**Interpretive Guideline**

Surveyor Probe:

Request a list of resident's receiving 3rd party services.  
Interview the resident/resident representative about services.  
Review resident records to ensure services are properly documented.

If concerns arise related to care coordination, review the facility's policy relating to the delivery of services by third parties for compliance.

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 46 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

resident meets the criteria for admission and continued residency. The facility, when requested by residents or representatives, must coordinate with the provider to facilitate the receipt of care and services provided to meet the particular resident's needs.

(c) The administrator or designee must ensure that:

1. Care coordination includes documented communications about the resident's condition and response to treatment or services ordered by the physician which may impact the resident's appropriateness for continued residency in the facility;
2. Communications occur at least once every 30 days and whenever there is a significant change in the resident's condition; and
3. If physician ordered treatments or services occur less often than once a month, communications must be conducted according to the ordered treatment or service schedule and whenever there is a significant change in the resident's condition.
4. When communication with the third party provider is unsuccessful, at least two attempts at communication on two separate days must be documented. Documentation must include the name of the person from the third party provider with whom contact was attempted, the method of communication, and the date and time of the attempts. This documentation must be included in the resident's record in accordance with the timeframes in subparagraphs 59A-36.007(6)(c)2. and 3.

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

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 47 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

**ST - A0032 - Resident Care - Elopement Standards**

**Title** Resident Care - Elopement Standards

**Type** Rule

59A-36.007(7) FAC

**Regulation Definition**

59A-36.007

(7) ELOPEMENT STANDARDS.

(a) Residents Assessed at Risk for Elopement. All residents assessed at risk for elopement or with any history of elopement must be identified so staff can be alerted to their needs for support and supervision. All residents must be assessed for risk of elopement by a health care provider or a mental health care provider within 30 calendar days of being admitted to a facility. If the resident has had a health assessment performed prior to admission pursuant to paragraph 59A-36.006(2)(a), F.A.C., this requirement is satisfied. A resident placed in a facility on a temporary emergency basis by the Department of Children and Families pursuant to Section 415.105 or 415.1051, F.S., is exempt from this requirement for up to 30 days.

1. As part of its resident elopement response policies and procedures, the facility must make, at a minimum, a daily effort to determine that at risk residents have identification on their persons that includes their name and the facility's name, address, and telephone number. Staff trained pursuant to paragraph 59A-36.011(10)(a) or (c), F.A.C., must be generally aware of the location of all residents assessed at high risk for elopement at all times.

2. The facility must have a photo identification of at risk residents on file that is accessible to all facility staff and law enforcement as necessary. The facility's file must contain the resident's photo identification upon admission or upon being

**Interpretive Guideline**

Surveyor Probe:

Review the facility's policy to verify it contains required elements.

Review a sample of resident records to determine compliance with the requirement.

Interview staff about elopement drills.

Review documentation of elopement drills.

**Agency for Health Care Administration  
ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 48 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

assessed at risk for elopement subsequent to admission. The photo identification may be provided by the facility, the resident, or the resident's representative.

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

1. An immediate search of the facility and premises,
2. The identification of staff responsible for implementing each part of the elopement response policies and procedures, including specific duties and responsibilities,
3. The identification of staff responsible for contacting law enforcement, the resident's family, guardian, health care surrogate, and case manager if the resident is not located pursuant to subparagraph (8)(b)1.; and,
4. The continued care of all residents within the facility in the event of an elopement.

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

**ST - A0033 - PHYSICAL RESTRAINTS**

**Title** PHYSICAL RESTRAINTS

**Type** Rule

59A-36.007(8)

**Regulation Definition**

(8) PHYSICAL RESTRAINTS. Residents for whom a physician has prescribed a physical restraint must have a written care plan for the use of the physical restraint. The care plan must be developed within 14 days of the device being prescribed, and prior to use on the resident.

(a) The care plan must specify:

1. The device prescribed for use;

**Interpretive Guideline**



**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 49 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

2. The maximum amount of time the resident is to have the restraint applied each day; and,
3. In what manner and frequency staff will monitor, observe, and report to the physician any injuries, increase in agitation, signs and symptoms of depression, or decline in mobility or function related to the use of the prescribed restraint.
  - (b) Facility staff must ensure that the device is applied appropriately and safely.
  - (c) The resident's physician must review the appropriateness of the continued use of the physical restraint annually, and documentation of this review must be maintained in the resident's record. If the resident's ability to independently remove or avoid the device fluctuates, the device must be considered a physical restraint and all requirements of this subsection apply.

**ST - A0034 - ASSISTIVE DEVICES**

**Title** ASSISTIVE DEVICES

**Type** Rule

59A-36.007(9)

**Regulation Definition**

- (9) ASSISTIVE DEVICES. Facilities are responsible for ensuring the safe usage of a resident's assistive devices.
- (a) The facility must have policies and procedures that include the requirements and methods for assessing the physical condition of assistive devices that may injure the resident and procedures for recommending repair or replacement for the continuing safety of a resident's assistive device.
  - (b) Documentation of each assistive device a resident uses must be included in the resident's record.
  - (c) Direct care staff using assistive devices while rendering personal services to residents must know how to operate and utilize the equipment.

**Interpretive Guideline**

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 50 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

- (d) All assistive devices must be clean, in good repair, and free of hazards.
- (e) The facility must encourage and allow the resident to function with independence when using the assistive device.

**ST - A0035 - Use of Personnel; emergency care**

**Title** Use of Personnel; emergency care

**Type** Rule

429.255(1-2) FS

**Regulation Definition**

429.255 Use of personnel; emergency care.-

(1)(a) Persons under contract to the facility, facility staff, or volunteers, who are licensed according to part I of chapter 464, or those persons exempt under s. 464.022(1), and others as defined by rule, may administer medications to residents, take residents' vital signs, change residents' bandages for minor cuts and abrasions, manage individual weekly pill organizers for residents who self-administer medication, give prepackaged enemas ordered by a physician, observe residents, document observations on the appropriate resident's record, report observations to the resident's physician, and contract or allow residents or a resident's representative, designee, surrogate, guardian, or attorney in fact to contract with a third party, provided residents meet the criteria for appropriate placement as defined in s. 429.26. Nursing assistants certified pursuant to part II of chapter 464 may take residents' vital signs as directed by a licensed nurse or physician.

(b) All staff in facilities licensed under this part shall exercise their professional responsibility to observe residents, to document observations on the appropriate resident's record, and to report the observations to the resident's physician. However, the owner or administrator of the facility shall be

**Interpretive Guideline**

Has the facility had any emergency care issues? If yes, how did the facility handle it? Interview staff and the affected resident/family, if possible.

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

responsible for determining that the resident receiving services is appropriate for residence in the facility.

(c) In an emergency situation, licensed personnel may carry out their professional duties pursuant to part I of chapter 464 until emergency medical personnel assume responsibility for care.

(2) In facilities licensed to provide extended congregate care, persons under contract to the facility, facility staff, or volunteers, who are licensed according to part I of chapter 464, or those persons exempt under s. 464.022(1), or those persons certified as nursing assistants pursuant to part II of chapter 464, may also perform all duties within the scope of their license or certification, as approved by the facility administrator and pursuant to this part.

**ST - A0036 - INFECTION CONTROL PROCEDURES**

**Title** INFECTION CONTROL PROCEDURES

**Type** Rule

59A-36.007(10)

**Regulation Definition**

(10) INFECTION CONTROL PROCEDURES. Facilities must provide services in a manner that reduces the risk of transmission of infectious diseases.

(a) The facility must implement a hand hygiene program before and after the provision of personal services to residents whenever there is an expectation of possible exposure to infectious materials or bodily fluids. Hand hygiene may include the use of alcohol-based rubs, antiseptic handwash, or handwashing with soap and water.

(b) Standard precautions must be used when there is an anticipated exposure to transmissible infectious agents in blood, body fluids, secretions, excretions, nonintact skin, and mucuous membranes during the provision of personal

**Interpretive Guideline**

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 52 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

services. Standard precautions include: hand hygiene, and dependent upon the exposure, use of gloves, gown, mask, eye protection, or a face shield.

(c) The facility must clean and disinfect reusable medical equipment and communal assistive devices that have been designed for use by multiple residents before and after each use according to the manufacturer's recommendations.

**ST - A0050 - Medication - Self Administered Medications**

**Title** Medication - Self Administered Medications

**Type** Rule

429.256(2) FS;59A-36.008(1) FAC

**Regulation Definition**

429.256(2)  
Residents who are capable of self-administering their own medications without assistance shall be encouraged and allowed to do so. However, an unlicensed person may, consistent with a dispensed prescription's label or the package directions of an over-the-counter medication, assist a resident whose condition is medically stable with the self-administration of routine, regularly scheduled medications that are intended to be self-administered. Assistance with self-medication by an unlicensed person may occur only upon a documented request by, and the written informed consent of, a resident or the resident's surrogate, guardian, or attorney in fact. For the purposes of this section, self-administered medications include both legend and over-the-counter oral dosage forms, topical dosage forms, transdermal patches, and topical ophthalmic, otic, and nasal dosage forms including solutions, suspensions, sprays, and inhalers.

59A-36.008

Pursuant to sections 429.255 and 429.256, F.S., and this rule,

**Interpretive Guideline**

Surveyor Probes:

Ask for a list of residents who self-administer their own medication. Interview and observe the residents and review records to verify compliance.

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 53 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

licensed facilities may assist with the self-administration or administration of medications to residents in a facility. A resident may not be compelled to take medications but may be counseled in accordance with this rule.

**(1) SELF ADMINISTERED MEDICATIONS.**

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

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

**ST - A0051 - Medication - Pill Organizers**

**Title** Medication - Pill Organizers

**Type** Rule

59A-36.008(2) FAC

**Regulation Definition**

**(2) PILL ORGANIZERS.**

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

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

(c) A nurse may manage a pill organizer to be used only by

**Interpretive Guideline**

Nurse means a licensed practical nurse (LPN), registered nurse (RN), or advanced registered nurse practitioner (ARNP).

Surveyor Probes:

Ask for names of residents using pill organizers. Review the resident's health assessment, facility's assessment of

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 54 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

residents who self-administer medications. The nurse is responsible for instructing the resident in the proper use of the pill organizer. The nurse must manage the pill organizer in the following manner:

1. Obtain the labeled medication container from the storage area or the resident,
2. Transfer the medication from the original container into a pill organizer, labeled with the resident's name, according to the day and time increments as prescribed,
3. Return the medication container to the storage area or resident; and,
4. Document the date and time the pill organizer was filled in the resident's record.

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

resident's medication management, and progress notes of those residents to confirm they do not need help with their medications.

Interview staff to determine if proper steps are followed. If possible, observe a nurse filling a pill organizer. Interview residents regarding use of the pill organizer. If staff have identified a resident who is unable to use their pill organizer properly, what steps are taken?

If the pill organizer is spilled, what procedure or steps are followed?

When a prescription is changed or a medication discontinued, does nursing staff reload the pill organizer correctly?

Are the original prescription bottles or containers retained by the facility or a list kept providing the required information?

Does the resident's record note the resident is not taking their medications and the facility consultation with the resident? Does the resident's record document communication with the resident's health care provider, family, guardian or health care surrogate?

Is there a pattern to the medications the resident was not taking properly?

**ST - A0052 - Medication - Assistance with Self-Admin**

**Title** Medication - Assistance with Self-Admin

**Type** Rule

429.256(3-5); 59A-36.008(3)

**Regulation Definition**

429.256  
(3) Assistance with self-administration of medication includes:  
(a) Taking the medication, in its previously dispensed, properly labeled container, including an insulin syringe that is

**Interpretive Guideline**

Observe a medication pass and review medication records to determine compliance.

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 55 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

prefilled with the proper dosage by a pharmacist and an insulin pen that is prefilled by the manufacturer, from where it is stored, and bringing it to the resident.

(b) In the presence of the resident, confirming that the medication is intended for that resident, orally advising the resident of the medication name and dosage, opening the container, removing a prescribed amount of medication from the container, and closing the container. The resident may sign a written waiver to opt out of being orally advised of the medication name and dosage. The waiver must identify all of the medications intended for the resident, including names and dosages of such medications, and must immediately be updated each time the resident's medications or dosages change.

(c) Placing an oral dosage in the resident's hand or placing the dosage in another container and helping the resident by lifting the container to his or her mouth.

(d) Applying topical medications.

(e) Returning the medication container to proper storage.

(f) Keeping a record of when a resident receives assistance with self-administration under this section.

(g) Assisting with the use of a nebulizer, including removing the cap of a nebulizer, opening the unit dose of nebulizer solution, and pouring the prescribed premeasured dose of medication into the dispensing cup of the nebulizer.

(h) Using a glucometer to perform blood-glucose level checks.

(i) Assisting with putting on and taking off antiembolism stockings.

(j) Assisting with applying and removing an oxygen cannula but not with titrating the prescribed oxygen settings.

(k) Assisting with the use of a continuous positive airway pressure device but not with titrating the prescribed setting of the device.

(l) Assisting with measuring vital signs.

(m) Assisting with colostomy bags.

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 56 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

- (4) Assistance with self-administration does not include:
- (a) Mixing, compounding, converting, or calculating medication doses, except for measuring a prescribed amount of liquid medication or breaking a scored tablet or crushing a tablet as prescribed.
  - (b) The preparation of syringes for injection or the administration of medications by any injectable route.
  - (c) Administration of medications by way of a tube inserted in a cavity of the body.
  - (d) Administration of parenteral preparations.
  - (e) The use of irrigations or debriding agents used in the treatment of a skin condition.
  - (f) Assisting with rectal, urethral, or vaginal preparations.
  - (g) Assisting with medications ordered by the physician or health care professional with prescriptive authority to be given "as needed," unless the order is written with specific parameters that preclude independent judgment on the part of the unlicensed person, and the resident requesting the medication is aware of his or her need for the medication and understands the purpose for taking the medication.
  - (h) Medications for which the time of administration, the amount, the strength of dosage, the method of administration, or the reason for administration requires judgment or discretion on the part of the unlicensed person.
- (5) Assistance with the self-administration of medication by an unlicensed person as described in this section shall not be considered administration as defined in s. 465.003.

59A-36.008

**(3) ASSISTANCE WITH SELF-ADMINISTRATION.**

- (a) Any unlicensed person providing assistance with self-administration of medication must be 18 years of age or



**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 57 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

older, trained to assist with self administered medication pursuant to the training requirements of Rule 59A-36.011, F.A.C., and must be available to assist residents with self-administered medications in accordance with procedures described in Section 429.256, F.S. and this rule.

(b) In addition to the specifications of Section 429.256(3), F.S., assistance with self-administration of medication includes, orally advising the resident of the name and dosage of the medication and verbally prompting a resident to take medications as prescribed.

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

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

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

1. The health care provider may prescribe a medication schedule that coincides with the resident's presence in the facility,
2. The medication container may be given to the resident, a friend, or family member upon leaving the facility, with this fact noted in the resident's medication record,
3. The medication may be transferred to a pill organizer pursuant to the requirements of subsection (2), and given to the resident, a friend, or family member upon leaving the facility, with this fact noted in the resident's medication

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 58 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

record, or

4. Medications may be separately prescribed and dispensed in an easier to use form, such as unit dose packaging.

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

(g) As used in Section 429.256(4)(h), F.S., the terms "judgment" and "discretion" mean interpreting vital signs and evaluating or assessing a resident's condition.

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

**ST - A0053 - Medication - Administration**

**Title** Medication - Administration

**Type** Rule

59A-36.008(4) FAC

**Regulation Definition**

(4) MEDICATION ADMINISTRATION.

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

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

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

(d) A facility that performs clinical laboratory tests for

**Interpretive Guideline**

Surveyor Probe:

Observe a medication pass and review resident and staff records to verify that only licensed staff are administering medications

The Clinical Laboratory Licensure Unit telephone number located in paragraph (d) was changed to 850-412-4500 when AHCA transitioned to the Voice Over IP (VOIP) telephone system.

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 59 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

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

**ST - A0054 - Medication - Records**

**Title** Medication - Records

**Type** Rule

59A-36.008(5) FAC

**Regulation Definition**

(5) MEDICATION RECORDS.

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

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

**Interpretive Guideline**

Surveyor Probe:

Review the resident's record as necessary to determine compliance.

All Medication Observation Records (MORs) must be accurate and up-to-date.

Review the MOR for any omissions, delays, pre-dating of medications and ensure the MOR includes documentation of reasons for omission of delay. The MOR must be signed at time medication is given.

"Chemical restraint" means a pharmacologic drug that physically limits, restricts, or deprives an individual of movement or mobility, and is used for discipline or convenience and not required for the treatment of medical symptoms.

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 60 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

administered and include:

1. The name of the resident and any known allergies the resident may have;
  2. The name of the resident's health care provider and the health care provider's telephone number;
  3. The name, strength, and directions for use of each medication; and,
  4. A chart for recording each time the medication is taken, any missed dosages, refusals to take medication as prescribed, or medication errors.
- (c) For medications that serve as chemical restraints, the facility must, pursuant to Section 429.41, F.S., maintain a record of the prescribing physician's annual evaluation of the use of the medication.

The use of chemical restraints is limited to prescribed dosages of medications authorized by the resident's physician and must be consistent with the resident's diagnosis. Residents who are receiving medications that can serve as chemical restraints must be evaluated by their physician at least annually to assess:

1. The continued need for the medication.
2. The level of the medication in the resident's blood.
3. The need for adjustments in the prescription.

See documentation from physician that resident's use of the medication has been assessed or the resident has been seen by a psychiatrist for medication review.

**ST - A0055 - Medication - Storage and Disposal**

**Title** Medication - Storage and Disposal

**Type** Rule

59A-36.008(6) FAC

**Regulation Definition**

(6) MEDICATION STORAGE AND DISPOSAL.

- (a) In order to accommodate the needs and preferences of residents and to encourage residents to remain as independent as possible, residents may keep their medications, both prescription and over-the-counter, in their possession both on or off the facility premises. Residents may also store their medication in their rooms or apartments if either the room is kept locked when residents are absent or the medication is stored in a secure place that is out of sight of other residents.
- (b) Both prescription and over-the-counter medications for residents must be centrally stored if:
1. The facility administers the medication;
  2. The resident requests central storage. The facility must

**Interpretive Guideline**

Over the counter (OTC) products. The term OTC includes, but is not limited to, OTC medications, vitamins, nutritional supplements and nutraceuticals, hereafter referred to as OTC products, which can be sold without a prescription.

Observe where drugs are stored and note whether the medication cabinet, room, medication cart or other area is locked and the key is out of sight.

During the facility tour, observe whether there are drugs visible on counter tops, dressers, night stands, etc. If medications are observed during the tour, this needs to be further explored. Observe whether the resident appears able to be responsible for his/her medication. If not, this should be brought to the attention of the administrator.

If not kept secured in resident room or apartment and the resident requests facility courtesy storage, their medications must be centrally stored.

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 61 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

maintain a list of all medications being stored pursuant to such a request;

3. The medication is determined and documented by the health care provider to be hazardous if kept in the personal possession of the person for whom it is prescribed;
4. The resident fails to maintain the medication in a safe manner as described in this paragraph;
5. The facility determines that, because of physical arrangements and the conditions or habits of residents, the personal possession of medication by a resident poses a safety hazard to other residents, or
6. The facility's rules and regulations require central storage of medication and that policy has been provided to the resident before admission as required in Rule 59A-36.006, F.A.C.

(c) Centrally stored medications must be:

1. Kept in a locked cabinet; locked cart; or other locked storage receptacle, room, or area at all times;
2. Located in an area free of dampness and abnormal temperature, except that a medication requiring refrigeration must be kept refrigerated. Refrigerated medications must be secured by being kept in a locked container within the refrigerator, by keeping the refrigerator locked, or by keeping the area in which the refrigerator is located locked;
3. Accessible to staff responsible for filling pill-organizers, assisting with self-administration of medication, or administering medication. Such staff must have ready access to keys or codes to the medication storage areas at all times; and,
4. Kept separately from the medications of other residents and properly closed or sealed.

(d) Medication that has been discontinued but has not expired must be returned to the resident or the resident's representative, as appropriate, or may be centrally stored by the facility for future use by the resident at the resident's request. If centrally stored by the facility, the discontinued

Review records of residents who have been discharged for notation of drug disposition in their files. Examine medication cabinets for drugs prescribed for residents who have been discharged or discontinued or for which the medication has expired.

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 62 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

medication must be stored separately from medication in current use, and the area in which it is stored must be marked "discontinued medication." Such medication may be reused if prescribed by the resident's health care provider.

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

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

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

**ST - A0056 - Medication - Labeling and Orders**

**Title** Medication - Labeling and Orders

**Type** Rule

59A-36.008(7) FAC

**Regulation Definition**

(7) MEDICATION LABELING AND ORDERS.

(a) The facility may not store prescription drugs for self-administration, assistance with self-administration, or administration unless they are properly labeled and dispensed in accordance with Chapters 465 and 499, F.S., and Rule 64B16-28.108, F.A.C. If a customized patient medication

**Interpretive Guideline**

Surveyor Probes:

Review prescription drugs stored and controlled by the facility to determine they have been ordered by the health care provider and labeled by a licensed pharmacist. Check for out-dated centrally stored prescription medications.

Interview staff about unlabeled drugs.

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 63 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

package is prepared for a resident, and separated into individual medicinal drug containers, then the following information must be recorded on each individual container:

1. The resident's name; and,
  2. The identification of each medicinal drug in the container.
- (b) Except with respect to the use of pill organizers as described in subsection (2), no individual other than a pharmacist may transfer medications from one storage container to another.
- (c) If the directions for use are "as needed" or "as directed," the health care provider must be contacted and requested to provide revised instructions. For an "as needed" prescription, the circumstances under which it would be appropriate for the resident to request the medication and any limitations must be specified; for example, "as needed for pain, not to exceed 4 tablets per day." The revised instructions, including the date they were obtained from the health care provider and the signature of the staff who obtained them, must be noted in the medication record, or a revised label must be obtained from the pharmacist.
- (d) Any change in directions for use of a medication that the facility is administering or providing assistance with self-administration must be accompanied by a written, faxed, or electronic copy of a medication order issued and signed by the resident's health care provider. The new directions must promptly be recorded in the resident's medication observation record. The facility may then obtain a revised label from the pharmacist or place an "alert" label on the medication container that directs staff to examine the revised directions for use in the medication observation record.
- (e) A nurse may take a medication order by telephone. Such order must be promptly documented in the resident's medication observation record. The facility must obtain a written medication order from the health care provider within 10 working days. A faxed or electronic copy of a signed order

Only a nurse may transfer medication into a pill organizer for the management of medications for residents who self-administer.

The term "timely manner" can be addressed by the facility in their rules and regulations.

When reviewing medications, determine if any need to be refilled. Ask both staff and residents what the facility's procedure is to ensure that dosages are not missed. Do medication records reflect missed dosages? If so, what explanation is provided by staff and/or residents?

If family members have the responsibility for ensuring timely refilling of resident prescriptions, did the facility give the resident family member(s) ample notice of need to refill?

Review medications and MORs for "as needed" or PRN orders/directions

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 64 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

is acceptable.

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

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

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

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

**ST - A0057 - Medication - Over The Counter (OTC) Products**

**Title** Medication - Over The Counter (OTC) Products

**Type** Rule

59A-36.008(8) FAC

**Regulation Definition**

(8) OVER THE COUNTER (OTC) PRODUCTS. For purposes of this subsection, the term over the counter

**Interpretive Guideline**

When an OTC product is prescribed by a physician, the medication becomes a prescription and must be properly labeled with the resident's name and directions for use.



**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 65 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

includes, but is not limited to, over the counter medications, vitamins, nutritional supplements and nutraceuticals, hereafter referred to as OTC products, that can be sold without a prescription.

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

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

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

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

Observe to verify that OTC products are stored securely and properly labeled.

**Agency for Health Care Administration  
ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 66 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

**ST - A0058 - Pharmacy & Dietary; Uncorrected Deficiencies**

**Title** Pharmacy & Dietary; Uncorrected Deficiencies

**Type** Rule

429.42(1-2) FS; 58A-5.033(3)(a) FAC

**Regulation Definition**

429.42 Pharmacy and dietary services.-

(1) Any assisted living facility in which the agency has documented a class I or class II deficiency or uncorrected class III deficiencies regarding medicinal drugs or over-the-counter preparations, including their storage, use, delivery, or administration, or dietary services, or both, during a biennial survey or a monitoring visit or an investigation in response to a complaint, shall, in addition to or as an alternative to any penalties imposed under s. 429.19, be required to employ the consultant services of a licensed pharmacist, a licensed registered nurse, or a registered or licensed dietitian, as applicable. The consultant shall, at a minimum, provide onsite quarterly consultation until the inspection team from the agency determines that such consultation services are no longer required.

(2) A corrective action plan for deficiencies related to assistance with the self-administration of medication or the administration of medication must be developed and implemented by the facility within 48 hours after notification of such deficiency, or sooner if the deficiency is determined by the agency to be life-threatening.

58A-5.033(3)

(3) EMPLOYMENT OF A CONSULTANT.

(a) Medication Deficiencies.

1. If a class I, class II, or uncorrected class III deficiency directly relating to facility medication practices as established

**Interpretive Guideline**

Surveyor Probe:

Verify the presence of the consultant services of a licensed pharmacist, or a licensed registered nurse.

**Agency for Health Care Administration  
ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 67 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

in Rule 58A-5.0185, F.A.C., is documented by the agency pursuant to an inspection of the facility, the agency must notify the facility in writing that the facility must employ or contract the services of a pharmacist licensed pursuant to Section 465.0125, F.S., or registered nurse as determined by the agency.

2. After developing and implementing a corrective action plan in compliance with Section 429.42(2), F.S., the initial on-site consultant visit must take place within 7 working days of the notice of the class I or II deficiency and within 14 working days of the notice of an uncorrected class III deficiency. The facility must have available for review by the agency a copy of the license of the consultant pharmacist or registered nurse and the consultant's signed and dated review of the corrective action plan no later than 10 working days subsequent to the initial on-site consultant visit.

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

**ST - A0075 - Use of Personnel; Emergency Care (AED)**

**Title** Use of Personnel; Emergency Care (AED)

**Type** Rule

429.255(3-5) FS

**Regulation Definition**

(3)(a) An assisted living facility licensed under this part with 17 or more beds shall have on the premises at all times a functioning automated external defibrillator as defined in s.

**Interpretive Guideline**

For facilities with 17 beds or more, verify an automated external defibrillator (AED) in working order.

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 68 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

768.1325(2)(b).

(b) The facility is encouraged to register the location of each automated external defibrillator with a local emergency medical services medical director.

(c) The provisions of ss. 768.13 and 768.1325 apply to automated external defibrillators within the facility.

(4) Facility staff may withhold or withdraw cardiopulmonary resuscitation or the use of an automated external defibrillator if presented with an order not to resuscitate executed pursuant to s. 401.45. The agency shall adopt rules providing for the implementation of such orders. Facility staff and facilities may not be subject to criminal prosecution or civil liability, nor be considered to have engaged in negligent or unprofessional conduct, for withholding or withdrawing cardiopulmonary resuscitation or use of an automated external defibrillator pursuant to such an order and rules adopted by the agency. The absence of an order not to resuscitate executed pursuant to s. 401.45 does not preclude a physician from withholding or withdrawing cardiopulmonary resuscitation or use of an automated external defibrillator as otherwise permitted by law.

(5) The agency may adopt rules to implement the provisions of this section relating to use of an automated external defibrillator.

**ST - A0076 - Do Not Resuscitate Orders (DNROs)**

**Title** Do Not Resuscitate Orders (DNROs)

**Type** Rule

59A-36.009 FAC

**Regulation Definition**

(1) POLICIES AND PROCEDURES.

(a) Each assisted living facility must have written policies and procedures that explain its implementation of state laws and rules relative to Do Not Resuscitate Orders (DNROs). An

**Interpretive Guideline**

Surveyor Probe:

Review policies and procedures for DNROs as necessary for compliance determination.

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 69 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

assisted living facility may not require execution of a DNRO as a condition of admission or treatment. The assisted living facility must provide the following to each resident, or resident's representative, at the time of admission:

1. Form SCHS-4-2006, "Health Care Advance Directives - The Patient's Right to Decide," April 2006, or with a copy of some other substantially similar document, which incorporates information regarding advance directives included in chapter 765, F.S. Form SCHS-4-2006 is available from the Agency for Health Care Administration, 2727 Mahan Drive, Mail Stop 34, Tallahassee, FL 32308 or the agency's website at:

[http://ahca.myflorida.com/MCHQ/Health\\_Facility\\_Regulation/HC\\_Advance\\_Directives/docs/adv\\_dir.pdf](http://ahca.myflorida.com/MCHQ/Health_Facility_Regulation/HC_Advance_Directives/docs/adv_dir.pdf); and,

2. DH Form 1896, Florida Do Not Resuscitate Order Form, December, 2004, which is hereby incorporated by reference.

This form may be obtained by calling the Department of Health's toll free number 1(800)226-1911, extension 2780 or online at:

<http://www.flrules.org/Gateway/reference.asp?No=Ref-04005>.

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

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

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

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

**Agency for Health Care Administration  
ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 70 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

- (a) In the event a resident experiences cardiac or pulmonary arrest, staff trained in cardiopulmonary resuscitation (CPR) or a health care provider present in the facility, may withhold cardiopulmonary resuscitation (artificial ventilation, cardiac compression, endotracheal intubation and defibrillation).
- (b) In the event a resident is receiving hospice services and experiences cardiac or pulmonary arrest, facility staff must immediately contact hospice staff. The hospice procedures take precedence over those of the assisted living facility.

**ST - A0077 - Staffing Standards - Administrators**

**Title** Staffing Standards - Administrators

**Type** Rule

429.176 FS; 429.52(4-5),59A-36.01(1) FAC

**Regulation Definition**

429.176 Notice of change of administrator.-If, during the period for which a license is issued, the owner changes administrators, the owner must notify the agency of the change within 10 days and provide documentation within 90 days that the new administrator meets educational requirements and has completed the applicable core educational requirements under s. 429.52. A facility may not be operated for more than 120 consecutive days without an administrator who has completed the core educational requirements.

429.52

(4) A facility administrator must complete the required core training, including the competency test, within 90 days after the date of employment as an administrator. Failure to do so is a violation of this part and subjects the violator to an administrative fine as prescribed in s. 429.19. Administrators licensed in accordance with part II of chapter 468 are exempt from this requirement. Other licensed professionals may be

**Interpretive Guideline**

Surveyor Probe:

Review personnel record as necessary for compliance determination.

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 71 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

exempted, as determined by the agency by rule.

(5) Administrators are required to participate in continuing education for a minimum of 12 contact hours every 2 years.

59A-36.010

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

(a) An administrator must:

1. Be at least 21 years of age;
2. If employed on or after October 30, 1995, have, at a minimum, a high school diploma or G.E.D.;
3. Be in compliance with Level 2 background screening requirements pursuant to sections 408.809 and 429.174, F.S.;
4. Complete the core training and core competency test requirements pursuant to rule 59A-36.011, F.A.C., no later than 90 days after becoming employed as a facility administrator. Administrators who attended core training prior to July 1, 1997, are not required to take the competency test unless specified elsewhere in this rule; and,
5. Satisfy the continuing education requirements pursuant to rule 59A-36.011, F.A.C. Administrators who are not in compliance with these requirements must retake the core training and core competency test requirements in effect on the date the non-compliance is discovered by the agency or the department.

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

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 72 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

temporarily serving as facility administrator must:

1. Complete the core training and core competency test requirements pursuant to rule 59A-36.011, F.A.C.; and,
2. Complete all additional training requirements if the facility maintains licensure as an extended congregate care or limited mental health facility.

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

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

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



**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 73 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

**ST - A0078 - Staffing Standards - Staff**

**Title** Staffing Standards - Staff

**Type** Rule

59A-36.010(2) FAC

**Regulation Definition**

(2) STAFF.

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

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

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

(b) Staff must be qualified to perform their assigned duties consistent with their level of education, training, preparation,

**Interpretive Guideline**

Surveyor Probes:

Review a sample of personnel records as necessary for compliance determination.

**Agency for Health Care Administration  
ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 74 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

and experience. Staff providing services requiring licensing or certification must be appropriately licensed or certified. All staff must exercise their responsibilities, consistent with their qualifications, to observe residents, to document observations on the appropriate resident's record, and to report the observations to the resident's health care provider in accordance with this rule chapter.

(c) All staff must comply with the training requirements of rule 59A-36.011, F.A.C.

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

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

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

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

**ST - A0079 - Staffing Standards - Levels**

**Title** Staffing Standards - Levels

**Type** Rule

59A-36.010(3) FAC

**Regulation Definition**

(3) STAFFING STANDARDS.

(a) Minimum staffing:

**Interpretive Guideline**

Surveyor Probes:

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 75 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

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

Number of Residents, Day Care Participants, and Respite Care

Residents	Staff Hours/Week
-----------	------------------

0-5	168
6-15	212
16-25	253
26-35	294
36-45	335
46-55	375
56-65	416
66-75	457
76-85	498
86-95	539

Interview staff as necessary to verify staff schedules.

Interview residents and/or families regarding staffing.

Review schedules as necessary for required elements.

Verify the number of facility residents and daycare participants and respite care residents through observation, interview and record review to determine the number of required staff.

Request the staffing schedule for the last 2 weeks.

Verify there is one staff member certified in CPR and First Aid on the premises at all times.

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

2. Independent living residents, as referenced in subsection 59A-36.015(3), F.A.C., who occupy beds included within the licensed capacity of an assisted living facility but do not receive personal, limited nursing, or extended congregate care services, are not counted as residents for purposes of computing minimum staff hours.

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

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

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

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 76 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

the facility at all times.

a. Documentation of attendance at First Aid or CPR courses pursuant to subsection 59A-36.011(5), F.A.C., satisfies this requirement.

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

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

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

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

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

(b) Notwithstanding the minimum staffing requirements specified in paragraph (a), all facilities, including those composed of apartments, must have enough qualified staff to provide resident supervision, and to provide or arrange for resident services in accordance with the residents' scheduled and unscheduled service needs, resident contracts, and

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 77 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

resident care standards as described in rule 59A-36.007, F.A.C.

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

(d) The facility must provide staff immediately when the agency determines that the requirements of paragraph (a) are not met. The facility must immediately increase staff above the minimum levels established in paragraph (a), if the agency determines that adequate supervision and care are not being provided to residents, resident care standards described in rule 59A-36.007, F.A.C., are not being met, or that the facility is failing to meet the terms of residents' contracts. The agency will consult with the facility administrator and residents regarding any determination that additional staff is required. Based on the recommendations of the local fire safety authority, the agency may require additional staff when the facility fails to meet the fire safety standards described in rule chapter 69A-40, F.A.C., until such time as the local fire safety authority informs the agency that fire safety requirements are being met.

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

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

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 78 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

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

(f) Facilities holding a limited mental health, extended congregate care, or limited nursing services license must also comply with the staffing requirements of rules 59A-36.020, 59A-36.021 or 59A-36.022, F.A.C., respectively.

**ST - A0080 - Training - Core & Competency Test**

**Title** Training - Core & Competency Test

**Type** Rule

429.52(2-3) FS; 59A-36.011(1) FAC

**Regulation Definition**

429.52

(2) Administrators and other assisted living facility staff must meet minimum training and education requirements established by the agency by rule. This training and education is intended to assist facilities to appropriately respond to the needs of residents, to maintain resident care and facility standards, and to meet licensure requirements.

(3) The agency, in conjunction with providers, shall develop core training requirements for administrators consisting of core training learning objectives, a competency test, and a minimum required score to indicate successful passage of the core competency test. The required core competency test must cover at least the following topics:

(a) State law and rules relating to assisted living facilities.

(b) Resident rights and identifying and reporting abuse, neglect, and exploitation.

(c) Special needs of elderly persons, persons with mental illness, and persons with developmental disabilities and how to meet those needs.

**Interpretive Guideline**

Surveyor Probe:

Review personnel records as necessary for compliance determination.

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 79 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

- (d) Nutrition and food service, including acceptable sanitation practices for preparing, storing, and serving food.
- (e) Medication management, recordkeeping, and proper techniques for assisting residents with self-administered medication.
- (f) Firesafety requirements, including fire evacuation drill procedures and other emergency procedures.
- (g) Care of persons with Alzheimer's disease and related disorders.

59A-36.011

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

- (a) The assisted living facility core training requirements established by the department pursuant to section 429.52, F.S., shall consist of a minimum of 26 hours of training plus a competency test.
- (b) Administrators and managers must successfully complete the assisted living facility core training requirements within 3 months from the date of becoming a facility administrator or manager. Successful completion of the core training requirements includes passing the competency test. The minimum passing score for the competency test is 75%. Administrators who have attended core training prior to July 1, 1997, and managers who attended the core training program prior to April 20, 1998, shall not be required to take the competency test. Administrators licensed as nursing home administrators in accordance with chapter 468, part II, F.S., are exempt from this requirement.
- (c) Administrators and managers shall participate in 12 hours of continuing education in topics related to assisted living every 2 years.
- (d) A newly hired administrator or manager who has successfully completed the assisted living facility core training and continuing education requirements, shall not be required

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 80 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

to retake the core training. An administrator or manager who has successfully completed the core training but has not maintained the continuing education requirements will be considered a new administrator or manager for the purposes of the core training requirements and must:

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

(e) The fees for the competency test shall not exceed \$200.00.

The payment for the competency test fee shall be remitted to the entity administering the test. A new fee is due each time the test is taken.

**ST - A0081 - Training - Staff In-Service**

**Title** Training - Staff In-Service

**Type** Rule

429.52(1 & 7) FS; 59A-36.011(2-3) FAC

**Regulation Definition**

429.52(1)

(1) Each new assisted living facility employee who has not previously completed core training must attend a preservice orientation provided by the facility before interacting with residents. The preservice orientation must be at least 2 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.

(7) Facility staff shall participate in inservice training relevant to their job duties as specified by agency rule. Topics covered during the preservice orientation are not required to be repeated during inservice training. A single certificate of

**Interpretive Guideline**

Surveyor Probe:

Review a sample of personnel records as necessary for compliance determination.



**Agency for Health Care Administration  
ASPEN: Regulation Set (RS)**

*Printed 10/07/2021*

Page 81 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

completion that covers all required inservice training topics may be issued to a participating staff member if the training is provided in a single training course.

59A-36.011

**(2) STAFF PRESERVICE ORIENTATION.**

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

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

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

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

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

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

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

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 82 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

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

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

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

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

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

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

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

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

1. All facility staff shall be provided with a copy of the facility's resident elopement response policies and procedures.
2. All facility staff shall demonstrate an understanding and competency in the implementation of the elopement response policies and procedures.

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 83 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

**ST - A0082 - Training - HIV/AIDS**

**Title** Training - HIV/AIDS

**Type** Rule

59A-36.011(4) FAC

**Regulation Definition**

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

**Interpretive Guideline**

Surveyor Probe:  
Review a sample of personnel records as necessary for compliance determination.  
Licensed nurses are excluded from this requirement.

**ST - A0083 - Training - First Aid and CPR**

**Title** Training - First Aid and CPR

**Type** Rule

59A-36.011(5) FAC

**Regulation Definition**

(5) FIRST AID AND CARDIOPULMONARY RESUSCITATION (CPR). A staff member who has completed courses in First Aid and CPR and holds a currently valid card documenting completion of such courses must be in the facility at all times.  
(a) Documentation that the staff member possess current CPR certification that requires the student to demonstrate, in

**Interpretive Guideline**

Surveyor Probe:  
Review a sample of personnel records as necessary for compliance determination  
Note: Licensed nurses are required to take CPR certification every 2 years, but are exempt from First Aid certification.

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 84 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

person, that he or she is able to perform CPR and which is issued by an instructor or training provider that is approved to provide CPR training by the American Red Cross, the American Heart Association, the National Safety Council, or an organization whose training is accredited by the Commission on Accreditation for Pre-Hospital Continuing Education satisfies this requirement.

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

**ST - A0084 - Training - Assis Self-Admin Meds & Med Mgmt**

**Title** Training - Assis Self-Admin Meds & Med Mgmt

**Type** Rule

59A-36.011(6) FAC 429.52(6), FS

**Regulation Definition**

59A-36.011

**(6) ASSISTANCE WITH THE SELF-ADMINISTRATION OF MEDICATION AND MEDICATION MANAGEMENT.**

Unlicensed persons who will be providing assistance with the self-administration of medications as described in rule 59A-36.008, F.A.C., must meet the training requirements pursuant to section 429.52(6), F.S., prior to assuming this responsibility. Courses provided in fulfillment of this requirement must meet the following criteria:

(a) Training must cover state law and rule requirements with respect to the supervision, assistance, administration, and management of medications in assisted living facilities; procedures and techniques for assisting the resident with self-administration of medication including how to read a prescription label; providing the right medications to the right

**Interpretive Guideline**

Surveyor Probe:

Review a sample of personnel records as necessary for compliance determination.

Consider hire date for unlicensed staff and whether they received the additional two hours of training required to perform additional duties allowed under statute and rule. As of May 2018, training for unlicensed staff assisting with self-administration of medication is six hours.

The two-hour annual update may be completed online.

The six-hour training includes in-person demonstration of techniques.

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 85 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

resident; common medications; the importance of taking medications as prescribed; recognition of side effects and adverse reactions and procedures to follow when residents appear to be experiencing side effects and adverse reactions; documentation and record keeping; and medication storage and disposal. Training shall include demonstrations of proper techniques, including techniques for infection control, and ensure unlicensed staff have adequately demonstrated that they have acquired the skills necessary to provide such assistance.

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

1. Read and understand a prescription label;
2. Provide assistance with self-administration in accordance with section 429.256, F.S., and rule 59A-36.008, F.A.C., including:
  - a. Assist with oral dosage forms, topical dosage forms, and topical ophthalmic, otic and nasal dosage forms;
  - b. Measure liquid medications, break scored tablets, and crush tablets in accordance with prescription directions;
  - c. Recognize the need to obtain clarification of an "as needed" prescription order;
  - d. Recognize a medication order which requires judgment or discretion, and to advise the resident, resident's health care provider or facility employer of inability to assist in the administration of such orders;
  - e. Complete a medication observation record;
  - f. Retrieve and store medication;
  - g. Recognize the general signs of adverse reactions to medications and report such reactions;
  - h. Assist residents with insulin syringes that are prefilled with the proper dosage by a pharmacist and insulin pens that are prefilled by the manufacturer by taking the medication, in its previously dispensed, properly labeled container, from where

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 86 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

it is stored, and bringing it to the resident for self-injection;

i. Assist with nebulizers;

j. Use a glucometer to perform blood glucose testing;

k. Assist residents with oxygen nasal cannulas and continuous positive airway pressure (CPAP) devices, excluding the titration of the oxygen levels;

l. Apply and remove anti-embolism stockings and hosiery;

m. Placement and removal of colostomy bags, excluding the removal of the flange or manipulation of the stoma site; and,

n. Measurement of blood pressure, heart rate, temperature, and respiratory rate.

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

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

429.52

(6) Staff assisting with the self-administration of medications under s. 429.256 must complete a minimum of 6 additional hours of training provided by a registered nurse or a licensed pharmacist before providing assistance. Two hours of continuing education are required annually thereafter. The agency shall establish by rule the minimum requirements of this training

**Agency for Health Care Administration  
ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 87 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

**ST - A0085 - Training - Nutrition & Food Service**

**Title** Training - Nutrition & Food Service

**Type** Rule

59A-36.011(7) FAC

**Regulation Definition**

(7) NUTRITION AND FOOD SERVICE. The administrator or person designated by the administrator as responsible for the facility's food service and the day-to-day supervision of food service staff must obtain, annually, a minimum of 2 hours continuing education in topics pertinent to nutrition and food service in an assisted living facility. This requirement does not apply to administrators and designees who are exempt from training requirements under paragraph 59A-36.012(1)(b). A certified food manager, licensed dietician, registered dietary technician or health department sanitarian is qualified to train assisted living facility staff in nutrition and food service.

**Interpretive Guideline**

Surveyor Probe:

Review a sample of personnel records as necessary for compliance determination

**ST - A0086 - Training - ADRD**

**Title** Training - ADRD

**Type** Rule

59A-36.011(10) FAC

**Regulation Definition**

(10) ALZHEIMER'S DISEASE AND RELATED DISORDERS ("ADRD") TRAINING REQUIREMENTS. Facilities which advertise that they provide special care for persons with ADRD, or who maintain secured areas as described in Chapter 4, Section 464.4.6 of the Florida Building Code, as adopted in rule 61G20-1.001, F.A.C.,

**Interpretive Guideline**

Surveyor Probe:

Review a sample of personnel records as necessary for compliance determination

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 88 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

Florida Building Code Adopted, must ensure that facility staff receive the following training.

(a) Facility staff who interact on a daily basis with residents with ADRD but do not provide direct care to such residents and staff who provide direct care to residents with ADRD, shall obtain 4 hours of initial training within 3 months of employment. Completion of the core training program between April 20, 1998 and July 1, 2003 shall satisfy this requirement. Facility staff who meet the requirements for ADRD training providers under paragraph (g) of this subsection, will be considered as having met this requirement.

Initial training, entitled "Alzheimer's Disease and Related Disorders Level I Training," must address the following subject areas:

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

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

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

1. Behavior management,



**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 89 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

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

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

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

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

(g) Persons who seek to provide ADRD training in accordance with this subsection must provide the department or its designee with documentation that they hold a Bachelor's degree from an accredited college or university or hold a license as a registered nurse, and:

1. Have 1 year teaching experience as an educator of caregivers for persons with Alzheimer's disease or related disorders, or
2. Three years of practical experience in a program providing

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 90 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

care to persons with Alzheimer's disease or related disorders,  
or

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

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

**ST - A0087 - Alzheimer's Training - Prov & Curriculum Appr**

**Title** Alzheimer's Training - Prov & Curriculum Appr

**Type** Rule

58A-5.0194 FAC

**Regulation Definition**

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

(a) ADRDR Training Providers.

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

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

**Interpretive Guideline**

Review a sample of personnel records for compliance. Review the training curriculum to ensure it was provided by an approved trainer.

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 91 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

or

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

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

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

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

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

2. Applicants seeking approval as ADRD training providers must complete DOEA form ALF/ADRD-001, Application for Alzheimer's Disease or Related Disorders Training Provider Certification, dated November 2013, which is incorporated by reference and available at the Department of Elder Affairs, 4040 Esplanade Way, Tallahassee, Florida 32399-7000 and online at:

<http://www.flrules.org/Gateway/reference.asp?No=Ref-04000>.

(b) ADRD Training Curricula. Applicants seeking approval of ADRD curricula must complete DOEA form ALF/ADRD-002, Application for Alzheimer's Disease or Related Disorders Training Three-Year Curriculum Certification, dated November 2013, which is incorporated by reference and available at the Department of Elder Affairs, 4040 Esplanade Way, Tallahassee, Florida 32399-7000 and online at

<http://www.flrules.org/Gateway/reference.asp?No=Ref-04001>.

Approval of the curriculum will be granted based on how well the curriculum addresses the subject areas referenced in

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 92 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

subparagraphs 58A-5.0191(4)(a)2. and 58A-5.0191(4)(a)5., F.A.C. Curriculum approval will be granted for 3 years. After 3 years the curriculum must be resubmitted to the department or its designee for approval.

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

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

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

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

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 93 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

**ST - A0088 - Alzheimer's/Other Disorders - Disclosures**

**Title** Alzheimer's/Other Disorders - Disclosures

**Type** Rule

429.177 FS

**Regulation Definition**

Patients with Alzheimer's disease or other related disorders; certain disclosures.-A facility licensed under this part which claims that it provides special care for persons who have Alzheimer's disease or other related disorders must disclose in its advertisements or in a separate document those services that distinguish the care as being especially applicable to, or suitable for, such persons. The facility must give a copy of all such advertisements or a copy of the document to each person who requests information about programs and services for persons with Alzheimer's disease or other related disorders offered by the facility and must maintain a copy of all such advertisements and documents in its records. The agency shall examine all such advertisements and documents in the facility's records as part of the license renewal procedure.

**Interpretive Guideline**

Surveyor Probes:

Review advertisements (yellow pages) and brochures as necessary for compliance determination.

**ST - A0089 - Alzheimer's/Other Disorders - Special Care**

**Title** Alzheimer's/Other Disorders - Special Care

**Type** Rule

429.178 FS

**Regulation Definition**

429.178 Special care for persons with Alzheimer's disease or other related disorders.-  
(1) A facility which advertises that it provides special care for

**Interpretive Guideline**

Surveyor Probes:

Observe residents and staff for special care activities. Interview staff, residents and/or families as necessary for compliance determination.

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 94 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

persons with Alzheimer's disease or other related disorders must meet the following standards of operation:

(a)1. If the facility has 17 or more residents, have an awake staff member on duty at all hours of the day and night; or  
2. If the facility has fewer than 17 residents, have an awake staff member on duty at all hours of the day and night or have mechanisms in place to monitor and ensure the safety of the facility's residents.

(b) Offer activities specifically designed for persons who are cognitively impaired.

(c) Have a physical environment that provides for the safety and welfare of the facility's residents.

(d) Employ staff who have completed the training and continuing education required in subsection (2).

(2)(a) An individual who is employed by a facility that provides special care for residents who have Alzheimer's disease or other related disorders, and who has regular contact with such residents, must complete up to 4 hours of initial dementia-specific training developed or approved by the department. The training must be completed within 3 months after beginning employment and satisfy the core training requirements of s. 429.52(3)(g).

(b) A direct caregiver who is employed by a facility that provides special care for residents who have Alzheimer's disease or other related disorders and provides direct care to such residents must complete the required initial training and 4 additional hours of training developed or approved by the department. The training must be completed within 9 months after beginning employment and satisfy the core training requirements of s. 429.52(3)(g).

(c) An individual who is employed by a facility that provides special care for residents with Alzheimer's disease or other related disorders, but who only has incidental contact with such residents, must be given, at a minimum, general information on interacting with individuals with Alzheimer's

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 95 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

disease or other related disorders, within 3 months after beginning employment.

(3) In addition to the training required under subsection (2), a direct caregiver must participate in a minimum of 4 contact hours of continuing education each calendar year. The continuing education must include one or more topics included in the dementia-specific training developed or approved by the department, in which the caregiver has not received previous training.

(4) Upon completing any training listed in subsection (2), the employee or direct caregiver shall be issued a certificate that includes the name of the training provider, the topic covered, and the date and signature of the training provider. The certificate is evidence of completion of training in the identified topic, and the employee or direct caregiver is not required to repeat training in that topic if the employee or direct caregiver changes employment to a different facility. The employee or direct caregiver must comply with other applicable continuing education requirements.

(5) The department, or its designee, shall approve the initial and continuing education courses and providers.

(6) The department shall keep a current list of providers who are approved to provide initial and continuing education for staff of facilities that provide special care for persons with Alzheimer's disease or other related disorders.

(7) Any facility more than 90 percent of whose residents receive monthly optional supplementation payments is not required to pay for the training and education programs required under this section. A facility that has one or more such residents shall pay a reduced fee that is proportional to the percentage of such residents in the facility. A facility that does not have any residents who receive monthly optional supplementation payments must pay a reasonable fee, as established by the department, for such training and education programs.

(8) The department shall adopt rules to establish standards for trainers and training and to implement this section.

**Agency for Health Care Administration  
ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 96 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

**ST - A0090 - Training - Do Not Resuscitate Orders**

**Title** Training - Do Not Resuscitate Orders

**Type** Rule

59A-36.011(11) FAC

**Regulation Definition**

- (11) DO NOT RESUSCITATE ORDERS TRAINING.
- (a) Currently employed facility administrators, managers, direct care staff and staff involved in resident admissions must receive at least one hour of training in the facility's policies and procedures regarding Do Not Resuscitate Orders.
- (b) Newly hired facility administrators, managers, direct care staff and staff involved in resident admissions must receive at least one hour of training in the facility's policy and procedures regarding DNROs within 30 days after employment.
- (c) Training shall consist of the information included in rule 59A-36.009, F.A.C.

**Interpretive Guideline**

Surveyor Probe:  
Review as necessary for compliance determination. The training is specific to the facility.

**ST - A0091 - Training - Documentation & Monitoring**

**Title** Training - Documentation & Monitoring

**Type** Rule

59A-36.011(12) FAC

**Regulation Definition**

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

**Interpretive Guideline**

Surveyor Probe:  
Review a sample of personnel records as necessary for compliance determination



**Agency for Health Care Administration  
ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 97 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

1. The title of the training program,
  2. The subject matter of the training program,
  3. The training program agenda,
  4. The number of hours of the training program,
  5. The trainee's name, dates of participation, and location of the training program,
  6. The training provider's name, dated signature and credentials, and professional license number, if applicable.
- (b) Upon successful completion of training pursuant to this rule, the training provider must issue a certificate to the trainee as specified in this rule.
- (c) The facility must provide the Department of Elder Affairs and the Agency for Health Care Administration with training documentation and training certificates for review, as requested. The department and agency reserve the right to attend and monitor all facility in-service training, which is intended to meet regulatory requirements.

**ST - A0092 - Food Service - General Responsibilities**

**Title** Food Service - General Responsibilities

**Type** Rule

59A-36.012(1) FAC

**Regulation Definition**

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

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

**Interpretive Guideline**

Surveyor Probe:

Review a personnel record as necessary for compliance determination

**Agency for Health Care Administration  
ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 98 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

not subject to the 1 hour in-service training in safe food handling practices.

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

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

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

(e) An administrator or designee must comply with the food service continuing education requirements specified in rule 59A-36.011, F.A.C.

**ST - A0093 - Food Service - Dietary Standards**

**Title** Food Service - Dietary Standards

**Type** Rule

59A-36.012(2) FAC

**Regulation Definition**

(2) DIETARY STANDARDS.

(a) The meals provided by the assisted living facility must be planned based on the current USDA Dietary Guidelines for Americans, 2010, which are incorporated by reference and available for review at:

<http://www.flrules.org/Gateway/reference.asp?No=Ref-04003>, and the current summary of Dietary Reference Intakes established by the Food and Nutrition Board of the Institute of Medicine of the National Academies, 2010, which are

**Interpretive Guideline**

Surveyor Probe:

Review menus as necessary for compliance determination.

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 99 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

incorporated by reference and available for review at:

<http://iom.edu/Activities/Nutrition/SummaryDRIs/~media/Files/Activity%20Files/Nutrition/DRIs/New%20Material/5DRI%20Values%20SummaryTables%2014.pdf>. Therapeutic diets

must meet these nutritional standards to the extent possible.

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

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

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

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

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

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 100 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

in the facility for 6 months.

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

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

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

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

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

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

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 101 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

a plan for obtaining water in an emergency, with the plan coordinated with and reviewed by the local disaster preparedness authority.

**ST - A0094 - Food Service - Food Hygiene**

**Title** Food Service - Food Hygiene

**Type** Rule

59A-36.012(3) FAC

**Regulation Definition**

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

**Interpretive Guideline**

Surveyor Probes:  
Review reports as necessary for compliance determination.

**ST - A0095 - Food Service - Contracted Food Service**

**Title** Food Service - Contracted Food Service

**Type** Rule

59A-36.012(4) FAC

**Regulation Definition**

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

- (a) A copy of the current contract between the facility and the food service contractor.
- (b) A copy of the annually issued certificate or license

**Interpretive Guideline**

Surveyor Probes:  
Review contracts as necessary for compliance determination.

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 102 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

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

**ST - A0120 - Fiscal - Financial Stability**

**Title** Fiscal - Financial Stability

**Type** Rule

429.17(3) .275(1); 59A-36.013(1) FAC

**Regulation Definition**

429.17

(3) In addition to the requirements of part II of chapter 408, each facility must report to the agency any adverse court action concerning the facility's financial viability, within 7 days after its occurrence. The agency shall have access to books, records, and any other financial documents maintained by the facility to the extent necessary to determine the facility's financial stability.

429.275

(1) The administrator or owner of a facility shall maintain accurate business records that identify, summarize, and classify funds received and expenses disbursed and shall use written accounting procedures and a recognized accounting system.

59A-36.013 Fiscal Standards.

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

**Interpretive Guideline**

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 103 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

**ST - A0123 - Fiscal - Resident Trust Funds**

**Title** Fiscal - Resident Trust Funds

**Type** Rule

429.27(3-5) FS; 59A-36.013(2) FAC

**Regulation Definition**

429.27

(3) A facility, upon mutual consent with the resident, shall provide for the safekeeping in the facility of personal effects not in excess of \$500 and funds of the resident not in excess of \$500 cash, and shall keep complete and accurate records of all such funds and personal effects received. If a resident is absent from a facility for 24 hours or more, the facility may provide for the safekeeping of the resident's personal effects in excess of \$500.

(4) Any funds or other property belonging to or due to a resident, or expendable for his or her account, which is received by a facility shall be trust funds which shall be kept separate from the funds and property of the facility and other residents or shall be specifically credited to such resident. Such trust funds shall be used or otherwise expended only for the account of the resident. At least once every 3 months, unless upon order of a court of competent jurisdiction, the facility shall furnish the resident and his or her guardian, trustee, or conservator, if any, a complete and verified statement of all funds and other property to which this subsection applies, detailing the amount and items received, together with their sources and disposition. In any event, the facility shall furnish such statement annually and upon the discharge or transfer of a resident. Any governmental agency or private charitable agency contributing funds or other property to the account of a resident shall also be entitled to receive such statement annually and upon the discharge or

**Interpretive Guideline**

Surveyor Probe:

Request accounting of funds as necessary for compliance determination.

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

*Printed 10/07/2021*

Page 104 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

transfer of the resident.

(5) Any personal funds available to facility residents may be used by residents as they choose to obtain clothing, personal items, leisure activities, and other supplies and services for their personal use. A facility may not demand, require, or contract for payment of all or any part of the personal funds in satisfaction of the facility rate for supplies and services beyond that amount agreed to in writing and may not levy an additional charge to the individual or the account for any supplies or services that the facility has agreed by contract to provide as part of the standard monthly rate. Any service or supplies provided by the facility which are charged separately to the individual or the account may be provided only with the specific written consent of the individual, who shall be furnished in advance of the provision of the services or supplies with an itemized written statement to be attached to the contract setting forth the charges for the services or supplies.

59A-36.013

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



**Agency for Health Care Administration  
ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 105 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

**ST - A0125 - Fiscal - Surety Bonds**

**Title** Fiscal - Surety Bonds

**Type** Rule

429.27(2) FS; 59A-36.013(3) FAC

**Regulation Definition**

429.27

(2) A facility, or an owner, administrator, employee, or representative thereof, may not act as the guardian, trustee, or conservator for any resident of the assisted living facility or any of such resident's property. An owner, administrator, or staff member, or representative thereof, may not act as a competent resident's payee for social security, veteran's, or railroad benefits without the consent of the resident. Any facility whose owner, administrator, or staff, or representative thereof, serves as representative payee for any resident of the facility shall file a surety bond with the agency in an amount equal to twice the average monthly aggregate income or personal funds due to residents, or expendable for their account, which are received by a facility. Any facility whose owner, administrator, or staff, or a representative thereof, is granted power of attorney for any resident of the facility shall file a surety bond with the agency for each resident for whom such power of attorney is granted. The surety bond shall be in an amount equal to twice the average monthly income of the resident, plus the value of any resident's property under the control of the attorney in fact. The bond shall be executed by the facility as principal and a licensed surety company. The bond shall be conditioned upon the faithful compliance of the facility with this section and shall run to the agency for the benefit of any resident who suffers a financial loss as a result of the misuse or misappropriation by a facility of funds held pursuant to this subsection. Any surety company that cancels

**Interpretive Guideline**

Surveyor Probe:

Review surety bond as necessary for compliance determination.

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 106 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

or does not renew the bond of any licensee shall notify the agency in writing not less than 30 days in advance of such action, giving the reason for the cancellation or nonrenewal. Any facility owner, administrator, or staff, or representative thereof, who is granted power of attorney for any resident of the facility shall, on a monthly basis, be required to provide the resident a written statement of any transaction made on behalf of the resident pursuant to this subsection, and a copy of such statement given to the resident shall be retained in each resident's file and available for agency inspection.

59A-36.013

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

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

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

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

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

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

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 107 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

**ST - A0127 - Fiscal - Liability Insurance**

**Title** Fiscal - Liability Insurance

**Type** Rule

429.275(3); 59A-36.01(4); 624.605(1)(b)

**Regulation Definition**

**Interpretive Guideline**

429.275

(3) The administrator or owner of a facility shall maintain liability insurance coverage that is in force at all times.

Surveyor Probe:

Review insurance coverage as necessary for compliance determination.

59A-36.013

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

624.605(1)

(b) Liability insurance.-Insurance against legal liability for the death, injury, or disability of any human being, or for damage to property, with provision for medical, hospital, and surgical benefits to the injured persons, irrespective of the legal liability of the insured, when issued as a part of a liability insurance contract.

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 108 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

**ST - A0150 - Physical Plant - New Facilities**

**Title** Physical Plant - New Facilities

**Type** Rule

59A-36.014(1) FAC

**Regulation Definition**

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

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

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

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

**Interpretive Guideline**

Surveyor Probe:

Observe as necessary for compliance determination, and refer to the Florida Building Code etc.

**ST - A0151 - Physical Plant - Existing Facilities**

**Title** Physical Plant - Existing Facilities

**Type** Rule

59A-36.014(2) FAC

**Regulation Definition**

(2) EXISTING FACILITIES.

**Interpretive Guideline**

Surveyor Probe:

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 109 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

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

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

Observe as necessary for compliance determination, and refer to the Florida Building Code etc.

**ST - A0152 - Physical Plant - Safe Living Environ/Other**

**Title** Physical Plant - Safe Living Environ/Other

**Type** Rule

59A-36.014(3) FAC

**Regulation Definition**

(3) OTHER REQUIREMENTS.

(a) All facilities must:

1. Provide a safe living environment pursuant to section 429.28(1)(a), F.S.;
2. Be maintained free of hazards; and,
3. Ensure that all existing architectural, mechanical, electrical and structural systems, and appurtenances are maintained in good working order.

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

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

**Interpretive Guideline**

Surveyor Probe:

Observe and interview resident and staff as necessary for compliance determination.

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 110 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

2. A closet or wardrobe space for hanging clothes,
  3. A dresser, chest or other furniture designed for storage of clothing or personal effects,
  4. A table or nightstand, bedside lamp or floor lamp, and waste basket; and,
  5. A comfortable chair, if requested.
- (c) The facility must maintain master or duplicate keys to resident bedrooms to be used in the event of an emergency.
- (d) Residents who use portable bedside commodes must be provided with privacy during use.
- (e) Facilities must make available linens and personal laundry services for residents who require such services. Linens provided by a facility must be free of tears, stains and must not be threadbare.

**ST - A0154 - Waiver: Report of Findings**

**Title** Waiver: Report of Findings

**Type** Rule

59A-36.024(5)

**Regulation Definition**

(5) Report of Findings. A facility that has been granted a waiver must submit an annual report within 12 months of the order granting the waiver as specified in section 429.41(4), F.S. If the report is not submitted as required, the agency may revoke the waiver.

**Interpretive Guideline**

Has the facility been granted a waiver? If so, review the annual report. Was it submitted as required?

**ST - A0160 - Records - Facility**

**Title** Records - Facility

**Type** Rule

59A-36.015(1) FAC

**Agency for Health Care Administration  
ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 111 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

**Regulation Definition**

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

(1) FACILITY RECORDS. Facility records must include:

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

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

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

2. Date of discharge, reason for discharge, and identification of the facility or home address to which the resident was discharged. Readmission of a resident to the facility after discharge requires a new entry in the log. Discharge of a resident is not required if the facility is holding a bed for a resident who is out of the facility but intending to return pursuant to rule 59A-36.018, F.A.C. If the resident dies while in the care of the facility, the log must indicate the date of death.

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

(d) The facility's emergency management plan, with documentation of review and approval by the county emergency management agency, as described in rule 59A-36.019, F.A.C., that must be readily available by facility staff.

**Interpretive Guideline**

Surveyor Probe:

Review a sample of records as necessary for compliance determination.

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 112 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

- (e) The facility's liability insurance policy required in rule 59A-36.013, F.A.C.
- (f) For facilities that have a surety bond, a copy of the surety bond currently in effect as required by rule 59A-36.013, F.A.C.
- (g) The admission package presented to new or prospective residents (less the resident's contract) described in rule 59A-36.006, F.A.C.
- (h) If the facility advertises that it provides special care for persons with Alzheimer's disease or related disorders, a copy of all such facility advertisements as required by section 429.177, F.S.
- (i) A grievance procedure for receiving and responding to resident complaints and recommendations as described in rule 59A-36.007, F.A.C.
- (j) All food service records required in rule 59A-36.012, F.A.C., including menus planned and served and county health department inspection reports. Facilities that contract for food services, must include a copy of the contract for food services and the food service contractor's license or certificate to operate.
- (k) All fire safety inspection reports issued by the local authority or the State Fire Marshal pursuant to section 429.41, F.S., and rule chapter 69A-40, F.A.C., issued within the last 2 years.
- (l) All sanitation inspection reports issued by the county health department pursuant to section 381.031, F.S., and chapter 64E-12, F.A.C., issued within the last 2 years.
- (m) Pursuant to section 429.35, F.S., all completed survey, inspection and complaint investigation reports, and notices of sanctions and moratoriums issued by the agency within the last 5 years.
- (n) The facility's resident elopement response policies and procedures.
- (o) The facility's documented resident elopement response



**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 113 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

drills.

(p) For facilities licensed as limited mental health, extended congregate care, or limited nursing services, records required as stated in rules 59A-36.020, 59A-36.021 and 59A-36.022, F.A.C., respectively.

**ST - A0161 - Records - Staff**

**Title** Records - Staff

**Type** Rule

429.275(2) FS; 59A-36.015(2) FAC

**Regulation Definition**

429.275

(2) The administrator or owner of a facility shall maintain personnel records for each staff member which contain, at a minimum, documentation of background screening, if applicable, documentation of compliance with all training requirements of this part or applicable rule, and a copy of all licenses or certification held by each staff who performs services for which licensure or certification is required under this part or rule.

59A-36.015

(2) STAFF RECORDS.

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

1. Documentation of compliance with all staff training and continuing education required by rule 59A-36.011, F.A.C.,
2. Copies of all licenses or certifications for all staff providing services that require licensing or certification,
3. Documentation of compliance with level 2 background

**Interpretive Guideline**

Surveyor Probe:

Review a sample of personnel records as necessary for compliance determination.

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 114 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

screening for all staff subject to screening requirements as specified in section 429.174, F.S., and rule 59A-36.010, F.A.C.,

4. For facilities with a licensed capacity of 17 or more residents, a copy of the job description given to each staff member pursuant to rule 59A-36.010, F.A.C.,

5. Documentation verifying direct care staff and administrator participation in resident elopement drills pursuant to paragraph 59A-36.007(8)(c), F.A.C.

(b) The facility is not required to maintain personnel records for staff provided by a licensed staffing agency or staff employed by an entity contracting to provide direct or indirect services to residents and the facility. However, the facility must maintain a copy of the contract between the facility and the staffing agency or contractor as described in rule 59A-36.010, F.A.C.

(c) The facility must maintain the written work schedules and staff time sheets for the most current 6 months as required by rule 59A-36.010, F.A.C.

**ST - A0162 - Records - Resident**

**Title** Records - Resident

**Type** Rule

59A-36.015(3) FAC

**Regulation Definition**

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

(a) Resident demographic data as follows:

1. Name,
2. Sex,
3. Race,
4. Date of birth,
5. Place of birth, if known,

**Interpretive Guideline**

Surveyor Probe:

Review a sample of records as necessary for compliance determination.

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 115 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

6. Social security number,
  7. Medicaid and/or Medicare number, or name of other health insurance carrier,
  8. Name, address, and telephone number of next of kin, legal representative, or individual designated by the resident for notification in case of an emergency; and,
  9. Name, address, and telephone number of the health care provider and case manager, if applicable.
- (b) A copy of the Resident Health Assessment form, AHCA Form 1823 described in rule 59A-36.006, F.A.C.
- (c) Any orders for medications, nursing services, therapeutic diets, do not resuscitate orders, or other services to be provided, supervised, or implemented by the facility that require a health care provider's order.
- (d) Documentation of a resident's refusal of a therapeutic diet pursuant to rule 59A-36.012, F.A.C., if applicable.
- (e) The resident care record described in paragraph 59A-36.007(1)(e), F.A.C.
- (f) A weight record that is initiated on admission. Information may be taken from AHCA Form 1823 or the resident's health assessment. Residents receiving assistance with the activities of daily living must have their weight recorded semi-annually.
- (g) For facilities that will have unlicensed staff assisting the resident with the self-administration of medication, a copy of the written informed consent described in rule 59A-36.006, F.A.C., if such consent is not included in the resident's contract.
- (h) For facilities that manage a pill organizer, assist with self-administration of medications or administer medications for a resident, copies of the required medication records maintained pursuant to rule 59A-36.008, F.A.C.
- (i) A copy of the resident's contract with the facility, including any addendums to the contract as described in rule 59A-36.018, F.A.C.
- (j) For a facility whose owner, administrator, staff, or

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 116 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

representative thereof, serves as an attorney in fact for a resident, a copy of the monthly written statement of any transaction made on behalf of the resident as required in section 429.27, F.S.

(k) For any facility that maintains a separate trust fund to receive funds or other property belonging to or due a resident, a copy of the quarterly written statement of funds or other property disbursed as required in section 429.27, F.S.

(l) If the resident is an OSS recipient, a copy of the Department of Children and Families form Alternate Care Certification for Optional State Supplementation (OSS), CF-ES 1006, October 2005, which is hereby incorporated by reference and available for review at:  
<http://www.flrules.org/Gateway/reference.asp?No=Ref-04004>.

The absence of this form will not be the basis for administrative action against a facility if the facility can demonstrate that it has made a good faith effort to obtain the required documentation from the Department of Children and Families.

(m) Documentation of the appointment of a health care surrogate, health care proxy, guardian, or the existence of a power of attorney, where applicable.

(n) For hospice patients, the interdisciplinary care plan and other documentation that the resident is a hospice patient as required in rule 59A-36.006, F.A.C.

(o) The resident's Do Not Resuscitate Order, DH Form 1896, if applicable.

(p) For independent living residents who receive meals and occupy beds included within the licensed capacity of an assisted living facility, but who are not receiving any personal, limited nursing, or extended congregate care services, record keeping may be limited to the following at the discretion of the facility:

1. A log listing the names of residents participating in this arrangement,

**Agency for Health Care Administration  
ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 117 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

2. The resident demographic data required in this paragraph,
  3. The health assessment described in rule 59A-36.006, F.A.C.,
  4. The resident's contract described in rule 59A-36.018, F.A.C.; and,
  5. A health care provider's order for a therapeutic diet if such diet is prescribed and the resident participates in the meal plan offered by the facility.
- (q) Except for resident contracts, which must be retained for 5 years, all resident records must be retained for 2 years following the departure of a resident from the facility unless it is required by contract to retain the records for a longer period of time. Upon request, residents must be provided with a copy of their records upon departure from the facility.
- (r) Additional resident records requirements for facilities holding a limited mental health, extended congregate care, or limited nursing services license are provided in rules 59A-36.020, 59A-36.021 and 59A-36.022, F.A.C., respectively.

**ST - A0163 - Records - Resident, Penalties for Alteration**

**Title** Records - Resident, Penalties for Alteration

**Type** Rule

429.49 FS

**Regulation Definition**

- (1) Any person who fraudulently alters, defaces, or falsifies any medical or other record of an assisted living facility, or causes or procures any such offense to be committed, commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.
- (2) A conviction under subsection (1) is also grounds for restriction, suspension, or termination of license privileges.

**Interpretive Guideline**

Surveyor Probe:

Review a sample of records as necessary for compliance determination.

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 118 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

**ST - A0164 - Records - Inspection Availability**

**Title** Records - Inspection Availability

**Type** Rule

59A-36.015(4) FAC; 429.35(1) & (3) FS

**Regulation Definition**

59A-36.015

(4) RECORD INSPECTION.

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

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

429.35 Maintenance of records; reports.-

(1) Every facility shall maintain, as public information available for public inspection under such conditions as the agency shall prescribe, records containing copies of all inspection reports pertaining to the facility that have been issued by the agency to the facility. Copies of inspection reports shall be retained in the records for 5 years from the date the reports are filed or issued.

(3) Every facility shall post a copy of the last inspection report of the agency for that facility in a prominent location within the facility so as to be accessible to all residents and to the public. Upon request, the facility shall also provide a copy of the report to any resident of the facility or to an applicant for admission to the facility.

**Interpretive Guideline**

Surveyor Probe:

Review a sample of records as necessary for compliance determination.

Tour the facility and observe required postings.

Interview residents to determine whether or not they are knowledgeable about how/where to find the reports.

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 119 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

**ST - A0165 - Risk Mgmt & QA**

**Title** Risk Mgmt & QA

**Type** Rule

429.23(1-4 & 6-10) FS

**Regulation Definition**

429.23 Internal risk management and quality assurance program; adverse incidents and reporting requirements.-  
(1) Every facility licensed under this part may, as part of its administrative functions, voluntarily establish a risk management and quality assurance program, the purpose of which is to assess resident care practices, facility incident reports, deficiencies cited by the agency, adverse incident reports, and resident grievances and develop plans of action to correct and respond quickly to identify quality differences.  
(2) Every facility licensed under this part is required to maintain adverse incident reports. For purposes of this section, the term, "adverse incident" means:  
(a) An event over which facility personnel could exercise control rather than as a result of the resident's condition and results in:  
1. Death;  
2. Brain or spinal damage;  
3. Permanent disfigurement;  
4. Fracture or dislocation of bones or joints;  
5. Any condition that required medical attention to which the resident has not given his or her consent, including failure to honor advanced directives;  
6. Any condition that requires the transfer of the resident from the facility to a unit providing more acute care due to the incident rather than the resident's condition before the incident; or  
7. An event that is reported to law enforcement or its

**Interpretive Guideline**

Surveyor Probe:  
Review a sample of records as necessary for compliance determination.

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 120 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

personnel for investigation; or

(b) Resident elopement, if the elopement places the resident at risk of harm or injury.

(3) Licensed facilities shall provide within 1 business day after the occurrence of an adverse incident, through the agency's online portal, or if the portal is offline, by electronic mail, a preliminary report to the agency on all adverse incidents specified under this section. The report must include information regarding the identity of the affected resident, the type of adverse incident, and the status of the facility's investigation of the incident.

(4) Licensed facilities shall provide within 15 days, through the agency's online portal, or if the portal is offline, by electronic mail, a full report to the agency on all adverse incidents specified in this section. The report must include the results of the facility's investigation into the adverse incident.

(6) Abuse, neglect, or exploitation must be reported to the Department of Children and Families as required under chapter 415.

(7) The information reported to the agency pursuant to subsection (3) which relates to persons licensed under chapter 458, chapter 459, chapter 461, chapter 464, or chapter 465 shall be reviewed by the agency. The agency shall determine whether any of the incidents potentially involved conduct by a health care professional who is subject to disciplinary action, in which case the provisions of s. 456.073 apply. The agency may investigate, as it deems appropriate, any such incident and prescribe measures that must or may be taken in response to the incident. The agency shall review each incident and determine whether it potentially involved conduct by a health care professional who is subject to disciplinary action, in which case the provisions of s. 456.073 apply.

(8) If the agency, through its receipt of the adverse incident reports prescribed in this part or through any investigation, has reasonable belief that conduct by a staff member or employee



**Agency for Health Care Administration  
ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 121 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

of a licensed facility is grounds for disciplinary action by the appropriate board, the agency shall report this fact to such regulatory board.

(9) The adverse incident reports and preliminary adverse incident reports required under this section are confidential as provided by law and are not discoverable or admissible in any civil or administrative action, except in disciplinary proceedings by the agency or appropriate regulatory board.

(10) The agency may adopt rules necessary to administer this section.

**ST - A0166 - Risk Mgmt & QA; Liability Claim Report**

**Title** Risk Mgmt & QA; Liability Claim Report

**Type** Rule

429.23(5) FS;

**Regulation Definition**

429.23, FS

Internal risk management and quality assurance program; adverse incidents and reporting requirements.-

(5) Three business days before the deadline for the submission of the full report required under subsection (4), the agency shall send by electronic mail a reminder to the facility's administrator and other specified facility contacts. Within 3 business days after the agency sends the reminder, a facility is not subject to any administrative or other agency action for failing to withdraw the preliminary report if the facility determines the event was not an adverse incident or for failing to file a full report if the facility determines the event was an adverse incident.

**Interpretive Guideline**

Surveyor Probe:

Review liability claim report as necessary for compliance determination.

**Agency for Health Care Administration  
ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 122 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

**ST - A0167 - Resident Contracts**

**Title** Resident Contracts

**Type** Rule

59A-36.018 FAC; 429.24 FS

**Regulation Definition**

59A-36.018 Resident Contracts.

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

- (a) A list of the specific services, supplies and accommodations to be provided by the facility to the resident, including limited nursing and extended congregate care services that the resident elects to receive;
- (b) The daily, weekly, or monthly rate;
- (c) A list of any additional services and charges to be provided that are not included in the daily, weekly, or monthly rates, or a reference to a separate fee schedule that must be attached to the contract;
- (d) A provision stating that at least 30 days written notice will be given before any rate increase;
- (e) Any rights, duties, or obligations of residents, other than those specified in section 429.28, F.S.;
- (f) The purpose of any advance payments or deposit payments, and the refund policy for such advance or deposit payments;
- (g) A refund policy that must conform to section 429.24(3), F.S.;
- (h) A written bed hold policy and provisions for terminating a bed hold agreement if a facility agrees in writing to reserve a bed for a resident who is admitted to a nursing home, health care facility, or psychiatric facility. The resident or responsible party must notify the facility in writing of any change in status

**Interpretive Guideline**

Surveyor Probe:

Review a sample of records as necessary for compliance determination.

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 123 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

that would prevent the resident from returning to the facility. Until such written notice is received, the agreed upon daily, weekly, or monthly rate may be charged by the facility unless the resident's medical condition prevents the resident from giving written notification, such as when a resident is comatose, and the resident does not have a responsible party to act on the resident's behalf;

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

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

(k) A provision that residents must be assessed upon admission pursuant to subsection 59A-36.006(2), F.A.C., and every 3 years thereafter, or after a significant change, pursuant to subsection (4), of that rule;

(l) The facility's policies and procedures for self-administration, assistance with self-administration, and administration of medications, if applicable, pursuant to rule 59A-36.008, F.A.C. This also includes provisions regarding over-the-counter (OTC) products pursuant to subsection (8) of that rule; and,

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

(2) The resident, or the resident's representative, must be

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 124 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

provided with a copy of the executed contract.

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

429.24 FS

(1) The presence of each resident in a facility shall be covered by a contract, executed at the time of admission or prior thereto, between the licensee and the resident or his or her designee or legal representative. Each party to the contract shall be provided with a duplicate original thereof, and the licensee shall keep on file in the facility all such contracts. The licensee may not destroy or otherwise dispose of any such contract until 5 years after its expiration.

(2) Each contract must contain express provisions specifically setting forth the services and accommodations to be provided by the facility; the rates or charges; provision for at least 30 days' written notice of a rate increase; the rights, duties, and obligations of the residents, other than those specified in s. 429.28; and other matters that the parties deem appropriate. 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. Whenever money is deposited or advanced by a

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 125 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

resident in a contract as security for performance of the contract agreement or as advance rent for other than the next immediate rental period:

(a) Such funds shall be deposited in a banking institution in this state that is located, if possible, in the same community in which the facility is located; shall be kept separate from the funds and property of the facility; may not be represented as part of the assets of the facility on financial statements; and shall be used, or otherwise expended, only for the account of the resident.

(b) The licensee shall, within 30 days of receipt of advance rent or a security deposit, notify the resident or residents in writing of the manner in which the licensee is holding the advance rent or security deposit and state the name and address of the depository where the moneys are being held. The licensee shall notify residents of the facility's policy on advance deposits.

(3)(a) The contract shall include a refund policy to be implemented at the time of a resident's transfer, discharge, or death . . .

(b) If a licensee agrees to reserve a bed for a resident who is admitted to a medical facility, including, but not limited to, a nursing home, health care facility, or psychiatric facility, the resident or his or her responsible party shall notify the licensee of any change in status that would prevent the resident from returning to the facility. Until such notice is received, the agreed-upon daily rate may be charged by the licensee.

(c) The purpose of any advance payment and a refund policy for such payment, including any advance payment for housing, meals, or personal services, shall be covered in the contract.

(4) The contract shall state whether or not the facility is affiliated with any religious organization and, if so, which organization and its general responsibility to the facility.

**Agency for Health Care Administration  
ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 126 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

(5) Neither the contract nor any provision thereof relieves any licensee of any requirement or obligation imposed upon it by this part or rules adopted under this part.

(6) In lieu of the provisions of this section, facilities certified under chapter 651 shall comply with the requirements of s. 651.055.

(7) Notwithstanding the provisions of this section, facilities which consist of 60 or more apartments may require refund policies and termination notices in accordance with the provisions of part II of chapter 83, provided that the lease is terminated automatically without financial penalty in the event of a resident's death or relocation due to psychiatric hospitalization or to medical reasons which necessitate services or care beyond which the facility is licensed to provide. The date of termination in such instances shall be the date the unit is fully vacated. A lease may be substituted for the contract if it meets the disclosure requirements of this section. For the purpose of this section, the term "apartment" means a room or set of rooms with a kitchen or kitchenette and lavatory located within one or more buildings containing other similar or like residential units.

**ST - A0168 - Resident Refund Policy**

**Title** Resident Refund Policy

**Type** Rule

429.24(3)(a) FS; 429.27(7), FS

**Regulation Definition**

429.24  
(3)(a) . . . The refund policy shall provide that the resident or responsible party is entitled to a prorated refund based on the

**Interpretive Guideline**

Review a sample of records and any related documentation and correspondence to determine compliance.

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 127 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

daily rate for any unused portion of payment beyond the termination date after all charges, including the cost of damages to the residential unit resulting from circumstances other than normal use, have been paid to the licensee. For the purpose of this paragraph, the termination date shall be the date the unit is vacated by the resident and cleared of all personal belongings. If the amount of belongings does not preclude renting the unit, the facility may clear the unit and charge the resident or his or her estate for moving and storing the items at a rate equal to the actual cost to the facility, not to exceed 20 percent of the regular rate for the unit, provided that 14 days' advance written notification is given. If the resident's possessions are not claimed within 45 days after notification, the facility may dispose of them. The contract shall also specify any other conditions under which claims will be made against the refund due the resident. Except in the case of death or a discharge due to medical reasons, the refunds shall be computed in accordance with the notice of relocation requirements specified in the contract. However, a resident may not be required to provide the licensee with more than 30 days' notice of termination. If after a contract is terminated, the facility intends to make a claim against a refund due the resident, the facility shall notify the resident or responsible party in writing of the claim and shall provide said party with a reasonable time period of no less than 14 calendar days to respond. ....

429.27, FS Property and personal affairs of residents. -

(7) In the event of the death of a resident, a licensee shall return all refunds, funds, and property held in trust to the resident's personal representative, if one has been appointed at the time the facility disburses such funds, and, if not, to the resident's spouse or adult next of kin named in a beneficiary designation form provided by the facility to the resident. If the resident has no spouse or adult next of kin or such person

**Agency for Health Care Administration  
ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 128 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

cannot be located, funds due the resident shall be placed in an interest-bearing account, and all property held in trust by the facility shall be safeguarded until such time as the funds and property are disbursed pursuant to the Florida Probate Code. Such funds shall be kept separate from the funds and property of the facility and other residents of the facility. If the funds of the deceased resident are not disbursed pursuant to the Florida Probate Code within 2 years after the resident's death, the funds shall be deposited in the Health Care Trust Fund administered by the agency.

**ST - A0170 - Resident Refund Policy**

**Title** Resident Refund Policy

**Type** Rule

429.24(3)a

**Regulation Definition**

....The facility shall provide a refund to the resident or responsible party within 45 days after the transfer, discharge, or death of the resident. The agency shall impose a fine upon a facility that fails to comply with the refund provisions of the paragraph, which fine shall be equal to three times the amount due to the resident. One-half of the fine shall be remitted to the resident or his or her estate, and the other half to the Health Care Trust Fund to be used for the purpose specified in s. 429.18.

**Interpretive Guideline**

**ST - A0180 - Emergency Management**

**Title** Emergency Management

**Type** Rule

59A-36.019(1) FAC



**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 129 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

**Regulation Definition**

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

- (a) Provision for all hazards;
- (b) Provision for the care of residents remaining in the facility during an emergency, including pre-disaster or emergency preparation; protecting the facility; supplies; emergency power; food and water; staffing; and emergency equipment;
- (c) Provision for the care of residents who must be evacuated from the facility during an emergency including identification of such residents and transfer of resident records; evacuation transportation; sheltering arrangements; supplies; staffing; emergency equipment; and medications;
- (d) Provision for the care of additional residents who may be evacuated to the facility during an emergency including the identification of such residents, staffing, and supplies;
- (e) Identification of residents with Alzheimer's disease or related disorders, and residents with mobility limitations who may need specialized assistance either at the facility or in case of evacuation;
- (f) Identification of and coordination with the local emergency management agency;
- (g) Arrangement for post-disaster activities including responding to family inquiries, obtaining medical intervention for residents, transportation, and reporting to the local emergency management agency the number of residents who have been relocated, and the place of relocation; and,
- (h) The identification of staff responsible for implementing

**Interpretive Guideline**

Surveyor Probe:  
Review the emergency plan as necessary for compliance determination.

**Agency for Health Care Administration  
ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 130 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

each part of the plan.

**ST - A0181 - Emergency Plan Approval**

**Title** Emergency Plan Approval

**Type** Rule

59A-36.019(2) FAC

**Regulation Definition**

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

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

(b) A new facility as described in Rule 59A-36.014, F.A.C., and facilities whose ownership has been transferred, must submit an emergency management plan within 30 days after obtaining a license.

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

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

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

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

**Interpretive Guideline**

Surveyor Probe:

Review the plan for approval as necessary for compliance determination.

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 131 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

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

**ST - A0182 - Emergency Mgmt - Plan Implementation**

**Title** Emergency Mgmt - Plan Implementation

**Type** Rule

59A-36.019(3) FAC

**Regulation Definition**

(3) PLAN IMPLEMENTATION.

- (a) All staff must be trained in their duties and are responsible for implementing the emergency management plan.
- (b) If telephone service is not available during an emergency, the facility must request assistance from local law enforcement or emergency management personnel in maintaining communication.

**Interpretive Guideline**

Surveyor Probe:

Interview staff for knowledge as necessary for compliance determination.

**ST - A0183 - Emergency Mgmt - Facility Evacuation**

**Title** Emergency Mgmt - Facility Evacuation

**Type** Rule

59A-36.019(4) FAC

**Regulation Definition**

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

- (a) The facility must report the evacuation to the local office of emergency management or designee and to the agency within 6 hours of the evacuation order. If the evacuation takes more than 6 hours, the facility must report when the

**Interpretive Guideline**

Surveyor Probe:

Inquire if there has been an evacuation and review as necessary for compliance determination.

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 132 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

evacuation is completed.

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

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

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

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

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

**ST - A0184 - Emergency Mgmt - Emergency Shelter**

**Title** Emergency Mgmt - Emergency Shelter

**Type** Rule

59A-36.019(5) FAC

**Regulation Definition**

(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;

**Interpretive Guideline**

Surveyor Probe:

Inquire if there has been an evacuation to an emergency shelter and review as necessary for compliance determination.

The Assisted Living Unit (ALU) telephone number located in paragraph (c) was changed to 850-412-4304 when AHCA transitioned to the Voice Over IP (VOIP) telephone system.

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 133 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

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

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

**ST - A0189 - ADCCs in ALF**

**Title** ADCCs in ALF

**Type** Rule

429.905(2) FS; 59A-16.109(2-3) FAC

**Regulation Definition**

429.905(2)  
A licensed assisted living facility, a licensed hospital, or a licensed nursing home facility may provide services during the day which include, but are not limited to, social, health, therapeutic, recreational, nutritional, and respite services, to adults who are not residents. Such a facility need not be licensed as an adult day care center; however, the agency must monitor the facility during the regular inspection to ensure adequate space and sufficient staff. If an assisted living facility, a hospital, or a nursing home holds itself out to the

**Interpretive Guideline**

Make observations of participants and what services are being provided, including assistance with medication. Review participant records, including medication observation records. Conduct interviews with participants and/or family members to confirm how much time participants spend at the facility and how participants and/or family members learned of daycare services. Assess the amount of available congregate space in proportion to the number of facility residents and daycare participants.

**Agency for Health Care Administration  
ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 134 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

public as an adult day care center, it must be licensed as such and meet all standards prescribed by statute and rule. For the purpose of this subsection, the term "day" means any portion of a 24-hour day.

59A-16.109

(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 not be 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. A change in space usage that increases or decreases the Participant Capacity must continue to comply with all requirements of part III of chapter 429, F.S., and this rule.

(3) The Participant Capacity of facilities that are exempt from licensure as an Adult Day Care Center pursuant to section 429.905, F.S., shall be determined by the total amount of Congregate Space available to the Participants. Such Facilities shall utilize separate space over and above the minimum requirement needed to meet their own licensure certification approval requirements.

**ST - A0190 - Administrative Enforcement**

**Title** Administrative Enforcement

**Type** Rule

59A-36.023(1-2) & (3)(b); 429.14(5-6)

**Regulation Definition**

59A-36.023(1-2) & (3)(b) FAC

**Interpretive Guideline**

SURVEYOR PROBE:

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 135 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

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

429.41(5)

The agency may use an abbreviated biennial standard licensure inspection that consists of a review of key quality-of-care standards in lieu of a full inspection in a facility that has a good record of past performance. However, a full inspection must be conducted in a facility that has a history of class I or class II violations, uncorrected class III violations; or a class I, Class II, or uncorrected class III violation resulting from a complaint referred by the State Long-Term Care Ombudsman Program, within the previous licensure period immediately preceding the inspection or if a potentially serious problem is identified during the abbreviated inspection.

(1) Abbreviated Survey.

(a) An applicant for license renewal who does not have any class I or class II violations or uncorrected class III violations, or a class I, class II, or uncorrected class III violation resulting from a complaint referred by the State Long-Term Care Ombudsman Program within the two licensing periods immediately preceding the current renewal date, is 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 must inform the facility that it is eligible for an abbreviated survey, and that an abbreviated survey will be conducted.

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

- Is the ALF cooperative during the survey? Contact your Field Office for any provider that refuses access to the licensed facility, resident records, resident contact, or any other data necessary to determine compliance.
- Verify the presence of the consultant registered dietician or licensed dietician/nutritionist.

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 136 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

1. Section 429.26, F.S., and Rule 58A-5.0181, F.A.C., relating to residency criteria;
2. Section 429.27, F.S., and Rule 58A-5.021, F.A.C., relating to proper management of resident funds and property;
3. Section 429.28, F.S., and Rule 58A-5.0182, F.A.C., relating to respect for resident rights;
4. Section 429.41, F.S., and Rule 58A-5.0182, F.A.C., relating to the provision of supervision, assistance with the activities of daily living, and arrangement for appointments and transportation to appointments;
5. Section 429.256, F.S., and Rule 58A-5.0185, F.A.C., relating to assistance with or administration of medications;
6. Section 429.41, F.S., and Rule 58A-5.019, F.A.C., relating to the provision of sufficient staffing to meet resident needs;
7. Section 429.41, F.S., and Rule 58A-5.020, F.A.C., relating to minimum dietary requirements and proper food hygiene;
8. Section 429.075, F.S., and Rule 58A-5.029, F.A.C., relating to mental health residents' community support living plan;
9. Section 429.07, F.S., and Rule 58A-5.030, F.A.C., relating to meeting the environmental standards and residency criteria in a facility with an extended congregate care license; and
10. Section 429.07, F.S., and Rule 58A-5.031, F.A.C., relating to the provision of care and staffing in a facility with a limited nursing services license.

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

1. Violations of Rule Chapter 69A-40, F.A.C., relating to fire safety, that threaten the life or safety of a resident;
2. Violations relating to staffing standards or resident care



**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 137 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

standards that adversely affect the health, safety, or welfare of a resident;

3. Violations relating to facility staff rendering services for which the facility is not licensed; or
4. Violations relating to facility medication practices that are a threat to the health, safety, or welfare of a resident.

(2) Survey Deficiency.

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

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

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

(3(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 pursuant to an inspection of the facility, the agency must notify the facility in writing that the facility must employ or contract the services of a registered or licensed dietitian, or a licensed nutritionist.
2. The initial on-site consultant visit must take place within seven working days of the notice of a class I or II deficiency or within 14 working days of the notice of an uncorrected class III deficiency. The facility must have available for review by the agency a copy of the license or registration of

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 138 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

the consultant dietitian or nutritionist and the consultant's signed and dated review of the facility's corrective action plan, if a plan is required by the agency, no later than 10 working days after the initial on-site consultant visit.

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

429.14

(6) As provided under s. 408.814, the agency shall impose an immediate moratorium on an assisted living facility that fails to provide the agency with access to the facility or prohibits the agency from conducting a regulatory inspection. The licensee may not restrict agency staff from accessing and copying records at the agency's expense or from conducting confidential interviews with facility staff or any individual who receives services from the facility.

**ST - A0192 - Advertising**

**Title** Advertising

**Type** Rule

429.47(2-4) FS

**Regulation Definition**

(2) A freestanding facility shall not advertise or imply that any part of it is a nursing home. For the purpose of this subsection, "freestanding facility" means a facility that is not operated in conjunction with a nursing home to which residents of the

**Interpretive Guideline**

Review the facility advertising to determine compliance.

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 139 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

facility are given priority when nursing care is required. A person who violates this subsection is subject to fine as specified in s. 429.19.

(3) Any facility which is affiliated with any religious organization or which has a name implying religious affiliation shall include in its advertising whether or not it is affiliated with any religious organization and, if so, which organization.

(4) A facility licensed under this part which is not part of a facility authorized under chapter 651 shall include the facility's license number as given by the agency in all advertising. A company or person owning more than one facility shall include at least one license number per advertisement. All advertising shall include the term "assisted living facility" before the license number.

**ST - A0200 - Emergency Environmental Control**

**Title** Emergency Environmental Control

**Type** Rule

59A-36.025 FAC

**Regulation Definition**

59A-36.025 Emergency Environmental Control for Assisted Living Facilities.

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

(a) The acquisition of a sufficient alternate power source such as a generator(s), maintained at the assisted living facility, to ensure that current licensees of assisted living facilities will be equipped to ensure ambient air temperatures will be

**Interpretive Guideline**

Surveyor Probe:

Review the facility's documentation of their Comprehensive Emergency Management Plan and approval, including any approved waivers or extensions.

Review documentation of required notifications for compliance.

Interview residents, family, and staff for information/verification of knowledge of the plan.

Make observations.

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 140 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

maintained at or below 81 degrees Fahrenheit for a minimum of ninety-six (96) hours in the event of the loss of primary electrical power.

1. The required temperature must be maintained in an area or areas, determined by the assisted living facility, of sufficient size to maintain residents safely at all times and that is appropriate for resident care needs and life safety requirements. For planning purposes, no less than twenty (20) net square feet per resident must be provided. The assisted living facility may use eighty percent (80%) of its licensed bed capacity as the number of residents to be used in the calculation to determine the required square footage. This may include areas that are less than the entire assisted living facility if the assisted living facility's comprehensive emergency management plan includes allowing a resident to congregate when he or she desires in portions of the building where temperatures will be maintained and includes procedures for monitoring residents for signs of heat related injury as required by this rule. This rule does not prohibit a facility from acting as a receiving provider for evacuees when the conditions stated in section 408.821, F.S. and subsection 59A-36.019(5), F.A.C., are met. The plan shall include information regarding the area(s) within the assisted living facility where the required temperature will be maintained.

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

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

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

shall include information regarding the systems and equipment that will be used by the assisted living facility and the fuel required to operate the systems and equipment.

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

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

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

(b) The acquisition of sufficient fuel, and safe maintenance of that fuel at the facility, to ensure that in the event of the loss of primary electrical power there is sufficient fuel available for the alternate power source to maintain ambient temperatures at or below 81 degrees Fahrenheit for a minimum of ninety-six (96) hours after the loss of primary electrical power during a declared state of emergency. The plan must include information regarding fuel source and fuel storage.

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

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

b. A facility with a licensed capacity of 17 or more beds must

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 142 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

store 72 hours of fuel onsite.

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

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

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

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

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

**(2) SUBMISSION OF THE PLAN.**

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

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

(c) Each existing assisted living facility that undergoes any additions, modifications, alterations, refurbishment,

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 143 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

renovations or reconstruction that require modification of its systems or equipment affecting the facility's compliance with this rule shall amend its plan and submit it to the local emergency management agency for review and approval.

**(3) APPROVED PLANS.**

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

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

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

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

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

(b) The Agency shall allow an extension up to January 1, 2019 to providers in compliance with paragraph (c) below and who can show delays caused by necessary construction, delivery of ordered equipment, zoning or other regulatory approval processes. Assisted living facilities shall notify the Agency

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 144 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

that they will utilize the extension and keep the Agency apprised of progress on a quarterly basis to ensure there are no unnecessary delays. If an assisted living facility can show in its quarterly progress reports that unavoidable delays caused by necessary construction, delivery of ordered equipment, zoning or other regulatory approval processes will occur beyond the initial extension date, the assisted living facility may request a waiver pursuant to section 120.542, F.S.

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

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

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

- a. Fully and safely evacuate its residents prior to the arrival of the event; or
- b. Have an alternative power source and no less than ninety-six (96) hours of fuel stored onsite, within twenty-four (24) hours of the issuance of a state of emergency for the area of the assisted living facility.

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

(e) Existing assisted living facilities that undergo any additions, modifications, alterations, refurbishment, renovations or reconstruction that require modification of the systems or equipment affecting the assisted living facility's



**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 145 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

compliance with this rule shall implement its amended plan concurrent with any such additions, modifications, alterations, refurbishment, renovations or reconstruction.

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

**(5) POLICIES AND PROCEDURES.**

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

1. The use of cooling devices and equipment;
2. The use of refrigeration and freezers to produce ice and appropriate temperatures for the maintenance of medicines requiring refrigeration;
3. Wellness checks by assisted living facility staff to monitor for signs of dehydration and heat injury; and
4. A provision for obtaining medical intervention from emergency services for residents whose life safety is in jeopardy.

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

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 146 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

section, "readily available" means the ability to immediately produce the policies and procedures, either in electronic or paper format, upon request.

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

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

(7) **COMPREHENSIVE EMERGENCY MANAGEMENT PLAN.**

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

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

(8) **NOTIFICATION.**

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

1. Upon submission of the plan to the local emergency management agency that the plan has been submitted for review and approval;
2. Upon final implementation of the plan by the assisted living facility.

(b) Each assisted living facility must maintain a copy of each notification set forth in paragraph (a) above in a manner that makes each notification readily available at the licensee's physical address for review by a legally authorized entity. If

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 147 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

the notifications are maintained in an electronic format, facility staff must be readily available to access and produce the notifications. For purposes of this section, "readily available" means the ability to immediately produce the notifications, either in electronic or paper format, upon request.

**ST - A0300 - Facility Closure**

**Title** Facility Closure

**Type** Rule

429.31

**Regulation Definition**

429.31 Closing of facility; notice; penalty.-

(1) In addition to the requirements of part II of chapter 408, the facility shall inform, in writing, the agency and each resident or the next of kin, legal representative, or agency acting on each resident's behalf, of the fact and the proposed time of discontinuance of operation, following the notification requirements provided in s. 429.28(1)(k). In the event a resident has no person to represent him or her, the facility shall be responsible for referral to an appropriate social service agency for placement.

(2) Immediately upon the notice by the agency of the voluntary or involuntary termination of such operation, the agency shall inform the State Long-Term Care Ombudsman Program and monitor the transfer of residents to other facilities and ensure that residents' rights are being protected. The agency, in consultation with the Department of Children and Families, shall specify procedures for ensuring that all residents who receive services are appropriately relocated.

(3) All charges shall be prorated as of the date on which the facility discontinues operation, and if any payments have been made in advance, the payments for services not received shall

**Interpretive Guideline**

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 148 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

be refunded to the resident or the resident's guardian within 10 working days of voluntary or involuntary closure of the facility, whether or not such refund is requested by the resident or guardian.

(4) The agency may levy a fine in an amount no greater than \$5,000 upon each person or business entity that owns any interest in a facility that terminates operation without providing notice to the agency and the residents of the facility at least 30 days before operation ceases. This fine shall not be levied against any facility involuntarily closed at the initiation of the agency. The agency shall use the proceeds of the fines to operate the facility until all residents of the facility are relocated.

ST - AE200 - ECC - Licensing

**Title** ECC - Licensing

**Type** Rule

59A-36.021(1); 429.07(3)(b)4

**Regulation Definition**

59A-36.021(1) LICENSING.

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

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

429.07(3)(b)

4. A facility that is licensed to provide extended congregate care services must:

**Interpretive Guideline**

SURVEYOR PROBE:

- OBSERVE ECC RESIDENTS and determine if they meet the admission and continued residency requirements for ECC
- Interview ECC residents and verify what services the ALF is providing.
  
- Review staff training to ensure ECC Training requirements are met.

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 149 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

- a. Demonstrate the capability to meet unanticipated resident service needs.
- b. Offer a physical environment that promotes a homelike setting, provides for resident privacy, promotes resident independence, and allows sufficient congregate space as defined by rule.
- c. Have sufficient staff available, taking into account the physical plant and firesafety features of the building, to assist with the evacuation of residents in an emergency.
- d. Adopt and follow policies and procedures that maximize resident independence, dignity, choice, and decisionmaking to permit residents to age in place, so that moves due to changes in functional status are minimized or avoided.
- e. Allow residents or, if applicable, a resident's representative, designee, surrogate, guardian, or attorney in fact to make a variety of personal choices, participate in developing service plans, and share responsibility in decisionmaking.
- f. Implement the concept of managed risk.
- g. Provide, directly or through contract, the services of a person licensed under part I of chapter 464.
- h. In addition to the training mandated in s. 429.52, provide specialized training as defined by rule for facility staff.

**ST - AE201 - ECC - Policies**

**Title** ECC - Policies

**Type** Rule

59A-36.021(2) FAC 429.07(3)(b)5, FS

**Regulation Definition**

58A-5.030  
(2) EXTENDED CONGREGATE CARE POLICIES. Policies and procedures established through extended congregate care services must promote resident independence, dignity, choice, and decision-making. The facility must develop and

**Interpretive Guideline**

SURVEYOR PROBE:

Aging in Place means the process of providing increased or adjusted services to a person to compensate for the physical or mental decline that may occur with the aging process, in order to maximize the person's dignity and independence and permit them to remain in a familiar non-institutional, residential environment for as long as

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 150 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

implement specific written policies and procedures that address:

- (a) Aging in place;
- (b) The facility's residency criteria developed in accordance with the admission and discharge requirements described in subsection (5), and extended congregate care services listed in subsection (8);
- (c) The personal and supportive services the facility intends to provide, how the services will be provided, and the identification of staff positions to provide the services including their relationship to the facility;
- (d) The nursing services the facility intends to provide, identification of staff positions to provide nursing services, and the license status, duties, general working hours, and supervision of such staff;
- (e) Identifying potential unscheduled resident service needs and mechanisms for meeting those needs including the identification of resources to meet those needs;
- (f) A process for mediating conflicts among residents regarding choice of room or apartment and roommate; and,
- (g) How to involve residents in decisions concerning the resident. The services must provide opportunities and encouragement for the resident to make personal choices and decisions. If a resident needs assistance to make choices or decisions, a family member or other resident representative must be consulted. Choices must include at a minimum whether:
  1. To participate in the process of developing, implementing, reviewing, and revising the resident's service plan,
  2. To remain in the same room in the facility, except that a current resident transferring into an extended congregate care services may be required to move to the part of the facility licensed for extended congregate care, if only part of the facility is so licensed,
  3. To select among social and leisure activities,

possible.

Such services may be provided by facility staff, or friends, or through contractual arrangements with a third party.

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 151 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

4. To participate in activities in the community. At a minimum the facility must arrange transportation to such activities if requested by the resident; and,
5. To provide input with respect to the adoption and amendment of facility policies and procedures.

429.07(3)(b), FS

5. A facility that is licensed to provide extended congregate care services is exempt from the criteria for continued residency set forth in rules adopted under s. 429.41. A licensed facility must adopt its own requirements within guidelines for continued residency set forth by rule. However, the facility may not serve residents who require 24-hour nursing supervision. A licensed facility that provides extended congregate care services must also provide each resident with a written copy of facility policies governing admission and retention.

**ST - AE203 - ECC - Staffing Requirements**

**Title** ECC - Staffing Requirements

**Type** Rule

59A-36.021(3) FAC

**Regulation Definition**

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

- (a) Supervision by an administrator who has a minimum of two years of managerial, nursing, social work, therapeutic recreation, or counseling experience in a residential, long-term care, or acute care setting or agency serving elderly or disabled persons. If an administrator appoints a manager as the supervisor of an extended congregate care facility, both the administrator and manager must satisfy the requirements of subsection 59A-36.010(1), F.A.C.

**Interpretive Guideline**

SURVEYOR PROBES:

Interview the ECC supervisor and determine the scope of their responsibility.

Review personnel records to establish that the administrator and ECC supervisor meet the minimum education/experience requirement.

Verify Nursing Services where provided by a licensed nurse.

Review the resident's service plans and observe resident care/services to determine if the ALF has sufficient qualified

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 152 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

1. A baccalaureate degree may be substituted for one year of the required experience.
2. A nursing home administrator licensed under chapter 468, F.S., is qualified under this paragraph.
  - (b) Provide staff or contract the services of a nurse who must be available to provide nursing services, participate in the development of resident service plans, and perform monthly nursing assessments for extended congregate care residents.
  - (c) Provide enough qualified staff to meet the needs of extended congregate care residents in accordance with rule 59A-36.010, F.A.C., and to provide the services established in each resident's service plan.
  - (d) Ensure that adequate staff is awake during all hours to meet the scheduled and unscheduled needs of residents.
  - (e) Immediately provide additional or appropriately qualified staff, when the agency determines that service plans are not being followed or that residents' needs are not being met because insufficient staffing, in accordance with the staffing standards established in rule 59A-36.010, F.A.C.
  - (f) Ensure and document that staff receive extended congregate care training as required in rule 59A-36.011, F.A.C.

staff to carry out the plan.

Interview the ECC residents/families regarding the availability of staff to ensure the service plans are implemented.

**ST - AE204 - ECC - Admissions & Continued Residency**

**Title** ECC - Admissions & Continued Residency

**Type** Rule

429.26(9); 429.07(3)b ; 59A-36.021(4)

**Regulation Definition**

429.26(9)  
Facilities licensed to provide extended congregate care services shall promote aging in place by determining appropriateness of continued residency based on a comprehensive review of the resident's physical and functional

**Interpretive Guideline**

SURVEYOR PROBE:

- OBSERVE ECC RESIDENTS and determine if they meet the admission and continued residency requirements for ECC
- Interview ECC residents and verify what services the ALF is providing.



**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 153 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

status; the ability of the facility, family members, friends, or any other pertinent individuals or agencies to provide the care and services required; and documentation that a written service plan consistent with facility policy has been developed and implemented to ensure that the resident's needs and preferences are addressed.

429.07(3)b

... The primary purpose of extended congregate care services is to allow residents the option of remaining in a familiar setting from which they would otherwise be disqualified for continued residency as they become more impaired. A facility licensed to provide extended congregate care services may also admit an individual who exceeds the admission criteria for a facility with a standard license, if he or she is determined appropriate for admission to the extended congregate care facility.

59A-36.021

(4) ADMISSION AND CONTINUED RESIDENCY.

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

1. Be at least 18 years of age;
2. Be free from signs and symptoms of a communicable disease that is likely to be transmitted to other residents or staff; however, an individual who has human immunodeficiency virus (HIV) infection may be admitted to a facility, provided that he or she would otherwise be eligible for admission according to this rule;
3. Be able to transfer, with assistance if necessary. The assistance of more than one individual is permitted;
4. Not be a danger to self or others as determined by a health care practitioner or mental health practitioner licensed under chapter 490 or 491, F.S.;
5. Not be bedridden, unless the resident is receiving licensed

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 154 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

hospice services pursuant to Section 429.26(1)(c), F.S.;

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

7. Not require any of the following nursing services:

a. Artificial airway management of any kind except that of continuous positive airway pressure may be provided through the use of a CPAP or bipap machine,

b. Nasogastric tube feeding,

c. Monitoring of blood gases,

d. Management of post-surgical drainage tubes or wound vacuums,

e. Skilled rehabilitative services as described in rule

59G-4.290, F.A.C., or

f. Treatment of a surgical incision, unless the surgical incision and the condition that caused it have been stabilized and a plan of care developed. The plan of care must be maintained in the resident's record at the facility.

8. Not require 24-hour nursing supervision, unless the resident is receiving licensed hospice services pursuant to Section 429.26(1)(c), F.S.; and,

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

a. An assessment of the strengths, needs, and preferences of the individual, the health assessment required by subsection (6) of this rule, and the preliminary service plan developed in subsection (7),

b. The facility's residency criteria, and services offered or arranged for by the facility to meet resident needs; and,

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

10. Notwithstanding any other provisions of this rule, an individual enrolled and receiving licensed hospice services pursuant to Section 429.26(1)(c), F.S. may be admitted and receive extended congregate care services.

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 155 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

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

1. A resident may be bedridden for up to 14 consecutive days.
2. A terminally ill resident who no longer meets the criteria for continued residency may continue to reside in the facility if the following conditions are met:
  - a. The resident qualifies for, is admitted to, and consents to the services of a licensed hospice that coordinates and ensures the provision of any additional care and services that may be needed,
  - b. Continued residency is agreeable to the resident and the facility,
  - c. An interdisciplinary care plan, which specifies the services being provided by hospice and those being provided by the facility, is developed and implemented by a licensed hospice in consultation with the facility; and,
  - d. Documentation of the requirements of subparagraph (5) (b)2., is maintained in the resident's file.
3. The extended congregate care administrator or manager is responsible for monitoring the appropriateness of continued residency of a resident in extended congregate care services at all times.
4. A hospice resident that meets the qualifications of continued residency pursuant to this rule may only receive services from the assisted living facility's staff within the scope of the facility's license.
5. Staff may provide any nursing service permitted under the facility's license and total help with the activities of daily living for residents admitted to hospice. Staff may not exceed the scope of their professional licensure or training in any licensed assisted living facility.

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 156 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

**ST - AE205 - ECC - Health Assessment**

**Title** ECC - Health Assessment

**Type** Rule

59A-36.021(5); 429.07(3)(b)6-7

**Regulation Definition**

59A-36.021

(5) HEALTH ASSESSMENT. Before receiving extended congregate care services, all persons, including residents transferring within the same facility to that portion of the facility licensed to provide extended congregate care services, must be examined by a health care practitioner pursuant to rule 59A-36.006, F.A.C. A health assessment conducted no more than 60 days before receiving extended congregate care services meets this requirement. Once receiving services, a new health assessment must be obtained at least annually.

429.07 (3)(b), FS

6. Before the admission of an individual to a facility licensed to provide extended congregate care services, the individual must undergo a medical examination as provided in s.

429.26(5) and the facility must develop a preliminary service plan for the individual.

7. If a facility can no longer provide or arrange for services in accordance with the resident's service plan and needs and the facility's policy, the facility must make arrangements for relocating the person in accordance with s. 429.28(1)(k).

**Interpretive Guideline**

**SURVEYOR PROBE:**

Review the Health Assessments and determine if they reflect an examination by a physician or advanced registered nurse practitioner.

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 157 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

**ST - AE206 - ECC - Service Plans**

**Title** ECC - Service Plans

**Type** Rule

59A-36.021(6) FAC

**Regulation Definition**

**(6) SERVICE PLANS.**

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

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

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

(c) Pursuant to the definitions of "shared responsibility" and

**Interpretive Guideline**

**SURVEYOR PROBE:**

Review resident service plans for evidence of the required elements.

**OBSERVE RESIDENT CARE AND SERVICES PROVIDED.**

Interview the resident or their representatives to determine if they participated in the development of the plan. (Shared Responsibility)

Is there evidence the service plans were reviewed and updated quarterly? Do they reflect the resident's current needs?

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 158 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

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

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

ST - AE207 - ECC - Services

**Title** ECC - Services

**Type** Rule

59A-36.021(7) FAC

**Regulation Definition**

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

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

**Interpretive Guideline**

SURVEYOR PROBE:

OBSERVE RESIDENT CARE AND SERVICES.

Interview residents or their representatives.

Does the ECC program meet the resident's needs?

Verify nursing services were provided by a licensed nurse as defined under Chapter 464, F.S.

Is there evidence of nursing assessments?

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 159 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

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

1. Total help with bathing, dressing, grooming and toileting,
2. Nursing assessments conducted more frequently than monthly,
3. Measurement and recording of basic vital functions and weight,
4. Dietary management including provision of special diets, monitoring nutrition, and observing the resident's food and fluid intake and output,
5. Assistance with self-administered medications, or the administration of medications and treatments pursuant to a health care practitioner's order. If the individual needs assistance with self-administration the facility must inform the resident of the qualifications of staff who will be providing this assistance, and if unlicensed persons will be providing such assistance, obtain the resident's or the resident's surrogate, guardian, or attorney-in-fact's informed written consent to provide such assistance as required in section 429.256, F.S.,
6. Supervision of residents with dementia and cognitive impairments,
7. Health education and counseling and the implementation of health-promoting programs and preventive regimes,
8. Provision or arrangement for rehabilitative services; and,
9. Provision of escort services to health-related appointments.

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

1. Authorized by a health care practitioner's order and pursuant to a plan of care,
2. Medically necessary and appropriate for treatment of the

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 160 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

- resident's condition,
3. In accordance with the prevailing standard of practice in the nursing community,
  4. A service that can be safely, effectively, and efficiently provided in the facility,
  5. Recorded in nursing progress notes; and,
  6. In accordance with the resident's service plan.
- (d) At least monthly, or more frequently if required by the resident's service plan, a nursing assessment of the resident must be conducted.

**ST - AE208 - ECC - Records**

**Title** ECC - Records

**Type** Rule

59A-36.021(8) FAC 429.07(3)(b)3, FS

**Regulation Definition**

- 59A-36.021(8) RECORDS.
- (8) RECORDS. In addition to the records required in rule 59A-36.015, F.A.C., a facility providing extended congregate care services must maintain the following:
- (a) The service plans for each resident receiving extended congregate care services;
  - (b) The nursing progress notes for each resident receiving nursing services from the facility's staff;
  - (c) Nursing assessments; and,
  - (d) The facility's extended congregate care policies and procedures.

429.07 (3)(b), FS

3. A facility that is licensed to provide extended congregate care services shall maintain a written progress report on each person who receives such nursing services from the facility's staff which describes the type, amount, duration, scope, and

**Interpretive Guideline**

SURVEYOR PROBE:

Does the service plan include the required elements?



**Agency for Health Care Administration  
ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 161 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

outcome of services that are rendered and the general status of the resident's health. A registered nurse, or appropriate designee, representing the agency shall visit the facility at least twice a year to monitor residents who are receiving extended congregate care services and to determine if the facility is in compliance with this part, part II of chapter 408, and relevant rules. One of the visits may be in conjunction with the regular survey. The monitoring visits may be provided through contractual arrangements with appropriate community agencies. A registered nurse shall serve as part of the team that inspects the facility. The agency may waive one of the required yearly monitoring visits for a facility that has:

- a. Held an extended congregate care license for at least 24 months;
- b. No class I or class II violations and no uncorrected class III violations; and
- c. No ombudsman council complaints that resulted in a citation for licensure.

**ST - AE209 - ECC - Discharge**

**Title** ECC - Discharge

**Type** Rule

59A-36.021(9) FAC

**Regulation Definition**

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

**Interpretive Guideline**

SURVEYOR PROBE:

At least 45 days' notice of relocation or termination of residency. (refer to Resident Bill of Rights)

**Agency for Health Care Administration  
ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 162 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

**ST - AE210 - ECC - Training**

**Title** ECC - Training

**Type** Rule

59A-36.011(8) FAC

**Regulation Definition**

- (8) EXTENDED CONGREGATE CARE (ECC) TRAINING.
- (a) The administrator and ECC supervisor, if different from the administrator, must complete core training and 4 hours of initial training in extended congregate care prior to the facility receiving its ECC license or within 3 months of beginning employment in a currently licensed ECC facility as an administrator or ECC supervisor. Successful completion of the assisted living facility core training shall be a prerequisite for this training. ECC supervisors who attended the assisted living facility core training prior to April 20, 1998, shall not be required to take the assisted living facility core training competency test.
- (b) The administrator and the ECC supervisor, if different from the administrator, must complete a minimum of 4 hours of continuing education every two years in topics relating to the physical, psychological, or social needs of frail elderly and disabled persons, or persons with Alzheimer's disease or related disorders.
- (c) All direct care staff providing care to residents in an ECC program must complete at least 2 hours of in-service training, provided by the facility administrator or ECC supervisor, within 6 months of beginning employment in the facility. The training must address ECC concepts and requirements, including statutory and rule requirements, and the delivery of personal care and supportive services in an ECC facility.

**Interpretive Guideline**

SURVEYOR PROBE:

Review the ALF training records for the administrator, ECC supervisor and direct care staff for required training.

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 163 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

**ST - AL240 - LMH - Licensing**

**Title** LMH - Licensing

**Type** Rule

429.075; 59A-36.020(1)

**Regulation Definition**

429.075 Limited mental health license.-An assisted living facility that serves one or more mental health residents must obtain a limited mental health license.

59A-36.020 Limited Mental Health.

(1) LICENSE APPLICATION.

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

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

**Interpretive Guideline**

Surveyor Probe:

Review ALF license to validate LMH service capability.

Interview the administrator and residents and review resident records to identify which residents are mental health residents.

**ST - AL241 - LMH - Records**

**Title** LMH - Records

**Type** Rule

429.075(3-4); 59A-36.020(2) FAC

**Regulation Definition**

429.075

(3) A facility that has a limited mental health license must:

**Interpretive Guideline**

SURVEYOR PROBES:

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 164 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

- (a) Have a copy of each mental health resident's community living support plan and the cooperative agreement with the mental health care services provider or provide written evidence that a request for the community living support plan and the cooperative agreement was sent to the Medicaid managed care plan or managing entity under contract with the Department of Children and Families within 72 hours after admission. The support plan and the agreement may be combined.
- (b) Have documentation provided by the department that each mental health resident has been assessed and determined to be able to live in the community in an assisted living facility that has a limited mental health license or provide written evidence that a request for documentation was sent to the department within 72 hours after admission.
- (c) Make the community living support plan available for inspection by the resident, the resident's legal guardian or health care surrogate, and other individuals who have a lawful basis for reviewing this document.
- (d) Assist the mental health resident in carrying out the activities identified in the resident's community living support plan.
- (4) A facility that has a limited mental health license may enter into a cooperative agreement with a private mental health provider. For purposes of the limited mental health license, the private mental health provider may act as the case manager.

Review the admission and discharge log to verify Limited Mental Health residents

Review documentation provided by the Department of Children and Families that indicates the resident meets criteria for Limited Mental Health.

Review the Community Living Support Plan for scope of services the Limited Mental Health Resident is to receive.

Interview the Limited Mental Health resident to assess their knowledge of their Community Living Support Plan.

Interview the resident's mental health case manager about the resident's community living support plan.

Review resident files for required documentation.

Note: The Community Living Support Plan is completed by the mental health case manager in partnership with the facility and resident.

59A-36.020

(2) RECORDS.

- (a) A facility with a limited mental health license must maintain an up-to-date admission and discharge log containing the names and dates of admission and discharge for all mental health residents. The admission and discharge log required in rule 59A-36.015, F.A.C., satisfies this condition provided that all mental health residents are clearly identified.

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 165 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

(b) Staff records must contain documentation that designated staff have completed limited mental health training as required by rule 59A-36.011, F.A.C.

(c) Resident records must include:

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

a. An affirmative statement on the Alternate Care Certification for Optional State Supplementation (OSS) form, CF-ES 1006, October 2005, which is hereby incorporated by reference and available for review at:

<http://www.flrules.org/Gateway/reference.asp?No=Ref-03988>, that the resident is receiving SSI or SSDI due to a mental disorder,

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

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

- (I) The resident is eligible for, is receiving, or has received mental health services within the last 5 years, or
- (II) The resident has been diagnosed as having a severe or persistent mental disorder.

2. An appropriate placement assessment provided by the resident's mental health care provider within 30 days of admission to the facility that the resident has been assessed

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 166 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

and found appropriate for residence in an assisted living facility. Such assessment must be conducted by a psychiatrist, clinical psychologist, clinical social worker, psychiatric nurse, or an individual supervised by one of these professionals.

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

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

(II) Discharge Statement from a state mental hospital completed no more than 90 days before admission to the assisted living facility provided it contains a statement that the individual is appropriate to live in an assisted living facility, or  
(III) Other signed statement that the resident has been assessed and found appropriate for residency in an assisted living facility.

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

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

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

b. Includes the clinical mental health services to be provided

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 167 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

by the mental health care provider to help meet the resident's needs, and the frequency and duration of such services,

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

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

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

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

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

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

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

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

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

**Agency for Health Care Administration  
ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 168 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

later. The statement:

- a. Provides procedures and directions for accessing emergency and after-hours care for the mental health resident. The provider must furnish the resident and the facility with the provider's 24-hour emergency crisis telephone number;
  - b. Must be signed by the administrator or designee and the mental health care provider, or by a designated representative of a Medicaid prepaid health plan if the resident is on a plan and the plan provides behavioral health services in section 409.912, F.S.;
  - c. May cover all mental health residents of the facility who are clients of the same provider; and,
  - d. May be included in the Community Living Support Plan described in subparagraph (2)(c)3.
5. Missing documentation will not be the basis for administrative action against a facility if the facility can demonstrate that it has made a good faith effort to obtain the required documentation from the appropriate party. A documented request for such missing documentation made by the facility administrator within 72 hours of the resident's admission will be considered a good faith effort. The documented request must include the name, title, and phone number of the person to whom the request was made and must be kept in the resident's file.

**ST - AL242 - LMH - Responsibilities of Facility**

**Title** LMH - Responsibilities of Facility

**Type** Rule

429.075(2) FS; 59A-36.020(3) FAC

**Regulation Definition**

429.075  
(2) A facility that is licensed to provide services to mental health residents must provide appropriate supervision and

**Interpretive Guideline**

SURVEYOR PROBE:

Is the ALF assisting the resident in carrying out the activities identified in the Community Living Support Plan ?



**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 169 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

staffing to provide for the health, safety, and welfare of such residents.

59A-36.020

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

- (a) Meet the facility's obligation to assist the resident in carrying out the activities identified in the Community Living Support Plan;
- (b) Provide an opportunity for private face-to-face contact between the mental health resident and the resident's mental health case manager or other treatment personnel of the resident's mental health care provider;
- (c) Observe resident behavior and functioning in the facility, and record and communicate observations to the resident's mental health case manager or mental health care provider regarding any significant behavioral or situational changes that may signify the need for a change in the resident's professional mental health services, supports, and services described in the community living support plan, or that the resident is no longer appropriate for residency in the facility;
- (d) If the facility initiates an involuntary mental health examination pursuant to section 394.463, F.S., the facility must document the circumstances leading to the initiation of the examination;
- (e) Ensure that designated staff have completed limited mental health training as required by rule 59A-36.011, F.A.C.; and,
- (f) Maintain facility, staff, and resident records in accordance with the requirements of this rule chapter.

Does the ALF ensure privacy for the resident and their mental health case manager?

Interview the staff, resident and resident's MH case manager.

Review resident's record for required observations by staff.

Review staff training for required LMH training.

**Agency for Health Care Administration  
ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 170 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

ST - AL243 - LMH - Training

**Title** LMH - Training

**Type** Rule

429.075(1) FS; 59A-36.011(9) FAC

**Regulation Definition**

429.075

(1) To obtain a limited mental health license, a facility must hold a standard license as an assisted living facility, must not have any current uncorrected violations, and must ensure that, within 6 months after receiving a limited mental health license, the facility administrator and the staff of the facility who are in direct contact with mental health residents must complete training of no less than 6 hours related to their duties. This designation may be made at the time of initial licensure or relicensure or upon request in writing by a licensee under this part and part II of chapter 408. Notification of approval or denial of such request shall be made in accordance with this part, part II of chapter 408, and applicable rules. This training must be provided by or approved by the Department of Children and Families.

59A-36.011

(9) LIMITED MENTAL HEALTH TRAINING.

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

1. A minimum of 6 hours of specialized training in working with individuals with mental health diagnoses.
  - a. The training must be provided or approved by the Department of Children and Families and must be taken within 6 months of the facility's receiving a limited mental health

**Interpretive Guideline**

SURVEYOR PROBE:

Review personnel files to determine compliance with the required training.

Is the training provided or approved by the Department of Children and Families?

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 171 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

license or within 6 months of employment in a limited mental health facility.

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

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

a. Mental health diagnoses; and,

b. Mental health treatment such as:

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

(II) Resident progress in achieving treatment goals;

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

(IV) Crisis services and the Baker Act procedures.

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

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

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

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 172 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

**ST - AN275 - LNS - Licensing**

**Title** LNS - Licensing

**Type** Rule

59A-36.022 FAC; 429.07(3)(c)3 FS

**Regulation Definition**

59A-36.022 Limited Nursing Services.

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

429.07(3)(c)3

A person who receives limited nursing services under this part must meet the admission criteria established by the agency for assisted living facilities. When a resident no longer meets the admission criteria for a facility licensed under this part, arrangements for relocating the person shall be made in accordance with s. 429.28(1)(k), unless the facility is licensed to provide extended congregate care services.

**Interpretive Guideline**

Surveyor Probe:

Review the posted license in the facility to ensure LNS designation.  
Observe residents and review resident records.

**ST - AN276 - LNS - Nursing Services**

**Title** LNS - Nursing Services

**Type** Rule

59A-36.022(1) FAC

**Regulation Definition**

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

**Interpretive Guideline**

Surveyor Probe:

Observe resident care and services.

Interview residents or their representatives regarding the nursing services provided.

**Agency for Health Care Administration**  
**ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 173 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

24-hour nursing care and are enrolled in hospice.

**ST - AN277 - LNS - Resident Care Standards**

**Title** LNS - Resident Care Standards

**Type** Rule

59A-36.022(2) FAC

**Regulation Definition**

(2) RESIDENT CARE STANDARDS.

(a) A resident receiving limited nursing services in a facility holding only a standard and limited nursing services license must meet the admission and continued residency criteria specified in Rule 59A-36.006, F.A.C.

(b) In accordance with Rule 59A-36.010, 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 practitioner's order, a copy of which must be maintained in the resident's file.

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

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

**Interpretive Guideline**

Surveyor Probe:

Observe resident care and services.

Verify nursing services are provided based on authorization from a health care provider (MD/PA/ARNP). If concerns, contact the health care provider for clarification of orders.

Is there a qualified nurse to ensure the provision of the ordered services?

**Agency for Health Care Administration  
ASPEN: Regulation Set (RS)**

Printed 10/07/2021

Page 174 of 174

**Aspen State Regulation Set: A 4.16 ASSISTED LIVING FACILITY**

**ST - AN278 - LNS - Records**

**Title** LNS - Records

**Type** Rule

59A-36.022(3) FAC; 429.07(3)(c)2, FS

**Regulation Definition**

59A-36.022

(3) RECORDS.

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

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

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

429.07 (3)(c)2, FS

A facility that is licensed to provide limited nursing services shall maintain a written progress report on each person who receives such nursing services from the facility's staff. The report must describe the type, amount, duration, scope, and outcome of services that are rendered and the general status of the resident's health...

**Interpretive Guideline**

Surveyor Probe:

Review the facility list of LNS residents

Review the LNS resident records for required progress notes and monthly nursing assessments.