

Recommendations from Florida Assisted Living Association

Alzheimer's Secured Units

Require assisted living facilities that advertise that they provide specialized Alzheimer's disease or other related disorders, regardless of the size of the facility, to have an awake staff member on duty at all hours of the day and night for each secured unit of the ALF that houses any residents with Alzheimer's disease or other related disorder.

Safekeeping of Resident's Funds

Provide further protections for residents of assisted living facilities by increasing from \$200 to \$500, the amount an ALF may provide for the safekeeping of a resident's personal property and funds.

Keep Violations in Part I of Chapter 429, FS

Insert the licensing provisions for assisted living facilities back into Chapter 429, FS, since ALFs are not medical facilities and should not be regulated in the same chapter and by the same standards as medical facilities.

Advertising

Allow assisted living facilities to use the acronym ALF on business cards and other forms of advertising, rather than having to spell out Assisted Living Facility.

ALF Workgroup Recommendations

Florida Assisted Living Association – Rationale and Proposed Language

Licensure - Recommendations

- 1. Seek legislative changes to Chapter 429, FS, that are resident-care focused (Alzheimer's secured units, safekeeping of residents funds) and ensure that regulations are appropriately and consistently enforced (keep violations in Chapter 429, FS) yet streamlined where appropriate (advertising – use of "ALF", combined adverse incidents reporting)**

Rationale:

Statutory changes such as providing for secured units for residents with Alzheimer's or related disorders and increasing the amount of a resident's funds that a facility may hold in safekeeping are resident focused. Protecting residents in secured units is proactive rather than reactive. The amount of a resident's funds that an ALF may hold for a resident has not been changed in at least 10 years and should be adjusted to meet the current economy.

Reestablishing the violations section in Chapter 429, FS, ensures that the descriptions of the violations are specifically related to and appropriate for assisted living communities and not all of the medical facilities licensed under Part II of Chapter 408, FS. Reinstating the descriptions of the violations in Chapter 429, FS, provides continuity and consistency to the program, and, equally as important, ensures that these descriptions, which are uniquely appropriate to the regulation of ALFs, are restored. Assisted Living Facilities are State regulated programs. Keeping the descriptions in Chapter 408, Part II, F.S., forces federal guidelines (isolated, pattern, widespread and pattern of deficient practice) on a State program.

Streamlining of regulations provides more consistency and continuity for administrators and staff. This in turn allows for more time to be focused on resident care.

- **Alzheimer's Secured Units:**

The proposed language addresses issues assisted living facilities have in protecting residents with Alzheimer's disease by requiring an ALF, regardless of the size of the facility, to have an awake staff member on duty at all hours of the day and night for each secured unit of the ALF that houses any residents with Alzheimer's disease or other related disorder.

It further provides that, for the safety and protection of residents with Alzheimer's disease, related disorders, or dementia, a secured, locked unit may be designated. Exit doors for such units must be equipped with an operating alarm system which release upon activation of the fire alarm and an awake staff person must be present in the unit at all times.

Proposed Language:

429.178 Special care for persons with Alzheimer's disease or other related disorders.—

(1) A facility that ~~which~~ advertises that it provides special care for 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 for each secured unit of the facility that houses any residents with Alzheimer's disease or other related disorders. ~~;~~ ~~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).

For the safety and protection of residents with Alzheimer's disease, related disorders, or dementia, a secured locked unit may be designated. The unit may consist of the entire building or a distinct part of the building. Exit doors shall be equipped with an operating alarm system which releases upon activation of the fire alarm. These units are exempt from specific life safety requirements relating to delayed egress to which assisted living residences are normally subject. A staff member must be awake and present in the secured unit at all times.

- **Safekeeping of Resident's Funds:**

The proposed language provides further protections for residents of Assisted Living Facilities by increasing from \$200 to \$500, the amount an ALF may provide for the safekeeping of a resident's personal property and funds. This updated amount is more in line with today's economy.

Proposed Language:

429.27 Property and personal affairs of residents.—

(3) A facility administrator, upon mutual consent with the resident, shall provide for the safekeeping in the facility of personal effects, including funds, not in excess of \$500 ~~and funds of the resident not in excess of \$200 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, including funds, in excess of \$500.

- **Keep Violations in Part I of Chapter 429, FS:**

The proposed language reinserts the licensing provisions for Assisted Living Facilities back into Chapter 429, FS, since ALFs are not medical facilities and should not be regulated in the same chapter and by the same standards as medical facilities.

Proposed Language:

408.820 Exemptions.--Except as prescribed in authorizing statutes, the following exemptions shall apply to specified requirements of this part:

(13) Assisted living facilities, as provided under part I of chapter 429, are exempt from ss. s. 408.810(10) and 408.813(2).

429.14 Administrative penalties.—

(1) In addition to the requirements of part II of chapter 408, the agency may deny, revoke, and suspend any license issued under this part and impose an administrative fine in the manner provided in chapter 120 against a licensee for a violation of any provision of this part, part II of chapter 408, or applicable rules, or for any of the following actions by a licensee, for the actions of any person subject to level 2 background screening under s. 408.809, or for the actions of any facility employee:

(e) A citation of any of the following violations ~~deficiencies~~ as specified in s. 429.19:

1. One or more cited class I violations ~~deficiencies~~.
2. Three or more cited class II violations ~~deficiencies~~.
3. Five or more cited class III violations ~~deficiencies~~ that have been cited on a single survey and

have not been corrected within the times specified.

429.19 Violations; imposition of administrative fines; grounds.—

(2) Each violation of this part and adopted rules shall be classified according to the nature of the violation and the gravity of its probable effect on facility residents. The agency shall indicate the classification on the written notice of the violation as follows:

(a) Class “I” violations are those conditions or occurrences related to the operation and maintenance of a facility or to the care of residents which the agency determines present an imminent danger to the residents or a substantial probability that death or serious physical or emotional harm would result therefrom. The condition or practice constituting a class I violation shall be abated or eliminated within 24 hours, unless a fixed period, as determined by the agency, is required for correction defined in s. 408.813. The agency shall impose an administrative fine for a cited class I violation in an amount not less than \$5,000 and not exceeding \$10,000 for each violation. A fine shall be levied notwithstanding the correction of the violation.

(b) Class “II” violations are those conditions or occurrences related to the operation and maintenance of a facility or to the care of residents which the agency determines directly threaten the physical or emotional health, safety, or security of the residents, other than class I violations defined in s. 408.813. The agency shall impose an administrative fine for a cited class II violation in an amount not less than \$1,000 and not exceeding \$5,000 for each violation. A fine shall be levied notwithstanding the correction of the violation.

(c) Class “III” violations are those conditions or occurrences related to the operation and maintenance of a facility or to the care of residents which the agency determines indirectly or potentially threaten the physical or emotional health, safety, or security of residents, other than class I or class II violations defined in s. 408.813. The agency shall impose an administrative fine for a cited class III violation in an amount not less than \$500 and not exceeding \$1,000 for each violation. If a class III violation is corrected within the time specified, a fine may not be imposed.

(d) Class “IV” violations are those conditions or occurrences related to the operation and maintenance of a facility or to required reports, forms, or documents that do not have the potential of negatively affecting residents. These violations are of a type that the agency determines do not threaten

the health, safety, or security of residents defined in s. 408.813. The agency shall impose an administrative fine for a cited class IV violation in an amount not less than \$100 and not exceeding \$200 for each violation. A citation for a class IV violation must specify the time within which the violation is required to be corrected. If a class IV violation is corrected within the time specified, a fine may not be imposed.

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, violations ~~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.

429.42 Pharmacy and dietary services.—

(1) Any assisted living facility in which the agency has documented a class I or class II violation ~~deficiency~~ or uncorrected class III violations ~~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.

- **Advertising:**

The proposed language allows Assisted Living Facilities to use the acronym ALF on business cards and other forms of advertising, rather than having to spell out Assisted Living Facility.

ALFs have been cited by AHCA for having “ALF” on business cards and other advertising. This provision will prevent this from happening in the future.

Proposed Language:

429.47 Prohibited acts; penalties for violation.--

(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" or the abbreviation "ALF" before the license number.

- **Combined Adverse Incidents Reports:**

The proposed language consolidates the adverse incident report from two reports into one final report, which is to be filed within 15 business days of the occurrence of the adverse incident. This allows adequate opportunity for the ALF to determine if the event that occurred actually is an adverse incident.

Proposed Language:

429.23 Internal risk management and quality assurance program; adverse incidents and reporting requirements.—

~~(3) Licensed facilities shall provide within 1 business day after the occurrence of an adverse incident, by electronic mail, facsimile, or United States 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.~~

(3)(4) Licensed facilities shall provide within 15 business days after the occurrence of an adverse incident, by electronic mail, facsimile, or United States mail, a full report to the agency on the all adverse incident, including information regarding the identity of the affected resident, the type of adverse incident, and incidents specified in this section. The report must include the results of the facility's investigation into the adverse incident.

(8)(9) The adverse incident report reports and preliminary adverse incident reports required under this section is are confidential as provided by law and is are not discoverable or admissible in any civil or administrative action, except in disciplinary proceedings by the agency or appropriate regulatory board.