CHAPTER 7

ASSISTED LIVING FACILITIES (ALF’S)
ASSISTED LIVING FACILITIES

I. TYPES OF ALF FACILITIES
(Regulations are under ACHA Regulations 58A-5 and can be found at:
http://ahca.myflorida.com/mchq/long_term_care/Assisted_living)

1. Standard ALF license
2. ECC (Extended Congregate Care)
3. LNS (Limited Nursing Services)
4. LMH (Limited Mental Health) - the facility will care for 3 or more residents with mental illness
5. While assisted living is the most common licensure term, some states still use other terms to describe
   assisted living, such as residential care, personal care, basic care, domiciliary care, housing with services,
   and board and care.

ECC, LNS and LMH – this type of license is required if the facility will offer 1 or more of the following
Personal Services:
1) Administration of Medications
2) Assistance with 1 or more of the ADL’s (ambulation, bathing, dressing, eating, grooming and toileting)

II. ADULT FAMILY CARE HOMES
(Regulations are under ACHA Regulations 58A-14 and can be found at:

This facility is similar to an ALF but limited to 5 residents

III. GENERAL REQUIREMENTS OF THE ALF

1. Must post Resident Bill of Rights
2. Must provide all residents with access to a phone (in a private area)
3. Last ACHA inspection is posted in a prominent location for review
4. Ombudsman information is posted with complaints against the facility
5. Must maintain copies of all inspections for 5 years
6. The facility must have an administrator (can be the owner) that ensures the facility is safe, clean,
   provides adequate nutrition and appropriate temperature ranges
7. Must maintain a “Resident File” for each resident in the building
8. If the facility is licensed for more than 17 residents
   (1) must have written Policy & Procedure manual on how residents will be assisted
   (2) must have written schedule for cleaning equipment, storage and work areas
   (3) must have written policies for nutritional services
9. All residents must have been seen by a healthcare professional within 60 days of admission or within 30
   days after admission.
10. A contract between each resident and facility which is signed before admission. Facility keeps a copy,
    the resident gets a copy. Facility must keep their copy of every contract for 5 years after it’s expiration
    date.
11. The facility must maintain an accurate Medication Administration Record (MAR) or
    Medication Observation Record (MOR) for all residents on supervised medication
III. STAFF REQUIREMENTS

1. The Administrator
   (1) 21 years of age or older
   (2) high school diploma or GED
   (3) must have completed 26 contact hours of “ALF Core Training”
   (4) 12 hours of Continuing education

2. For Manager (in absence of Administrator)
   (1) must always have at least 1 person in charge
   (2) at least 18 year of age
   (3) must have training in First Aid
   (4) must have 2 hours of CE on HIV within 6 months of starting
   (5) every 2 years must complete 1 hour of HIV C.E.

3. Staff providing Personal Care
   (1) must have 1 hour CE in Infection Control (including Universal Precautions)
   (2) must have 3 hours of training within 30 days of employment on resident behaviors, assistance with
       ADL’s etc.
   (3) must have 2 hours CE on HIV within 6 months of hire
   (4) 1 hour of additional CE every 2 years

4. For Facilities providing Special Services (i.e. Alzheimers Disease)
   (1) must have 4 hours of additional training in Alzheimer’s Disease within 3 months of hiring
   (2) if employee is involved in direct care – must have 4 more hours of training within 9 months of hire
       in Alzheimer’s disease

IV. THE RESIDENT’S RECORD (The Chart)

1. A Resident Record must be maintained for every current Resident
2. This Resident Record must be retained for 1 year after the discharge date
3. A copy of any P.O.A. (power of attorney) must be in the file
4. Must include statements about:
   (1) Physical and Mental status
   (2) Resident’s capability of administering own meds or their need for supervision or assistance
   (3) ADL’s – independent, requires supervision or requires individual assistance with ADL’s
5. Signed orders for all medications, diet and therapies

V. MEDICATIONS

1. O.T.C. Drugs
   (1) No Floor Stock allowed
   (2) When an OTC is prescribed by doctor it is treated as if it is a Prescription Medication
   (3) A resident can pick up or order an OTC without a doctor’s order

2. PRN Drug Orders
   (1) If a nurse is present that may evaluate the resident and then give a PRN medication as a result of
       their assessment
   (2) If a Med Tech is present they may only assist in the administration of a PRN order is the Resident
       has requested the medication. The Med Tech can not make a judgement that the resident needs a
       PRN drug
   (3) PRN orders must have a frequency and a reason for use as part of the order

3. Changes in Medication Instructions
   (1) Facility must document the Date of Revision
(2) Signature of staff who received the change in order AND
(3) Use an ancillary label which says “Order Change – See MAR”
(4) As an alternative, the pharmacy may relabel the product. NOTE: Facility staff are not allowed to alter a prescription label

4. Resident leaves the facility
   (1) On discharge, the meds should be turned over to the resident, their legal guardian or family member
   (2) If meds are not taken at discharge they must be stored for at least 15 days. After 15 days the meds are considered abandoned and can be destroyed

5. Destruction of Medications
   (1) Meds may be destroyed by the administrator or there designee plus one witness OR
   (2) Meds may be destroyed by a Pharmacist

6. Drugs that can be considered “Chemical Restraints”
   (1) this includes: Antipsychotics, Sedative Hypnotics, Tranquilizers, Antidepressants
   (2) These residents MUST be reviewed by the prescriber AT LEAST annually

7. Self Medication
   (1) if a resident keeps meds in their apartment they must be stored so that other residents don’t have ready access to them
   (2) residents may have their prescription meds supervised and stored centrally by the facility but may still keep OTC medications in their apartment. The OTC’s stored in the residents room do not have to be charted on the MAR
   (3) a doctor may write an order that “all meds (OTC’s included) must be supervised and stored centrally if a resident is a high risk for abuse or inappropriate use

8. Drug Samples in the facility
   (1) A doctor may give his patient samples in an ALF as long as the sample drug is labeled with the resident’s name, the practitioner’s name, the date dispensed, name and strength of the drug and directions for it’s use (unless these are on the sample package)

VI. REQUIREMENTS FOR A CONSULTANT

1. If the facility has a special ALF Pharmacy license it must employee a Consultant Pharmacist.
   (1) must do monthly inspections
   (2) must provide written report to administrator

2. In the case of a Class I, Class II or an unresolved Class III deficiency
   (1) ACHA may require the facility hire a licensed RN or a Consultant Pharmacist to help resolve the deficiencies
   (2) Administrator must obtain a copy of the Consultant License
   (3) The consultant’s visit must take place within 7 days for a Class I or Class II deficiency
   (4) The consultant’s visit must take place within 14 days for a Class III violation
   (5) The consultant must provide the administrator with a corrective action plan within 10 days of their visit
   (6) Consultant must continue at the facility until the Administrator and the Consultant send Letters to ACHA requesting that the Consulting arrangement be terminated. ACHA must agree in writing before termination of consultant services
## Resident Health Assessment for Assisted Living Facilities

TO BE COMPLETED BY FACILITY:  
Resident's Name:  
DOB:  

### Instructions to Licensed Health Care Providers:

After completion of all items in sections 1 and 2 of this form (pages 1 through 4), please return to:

- **Facility Name:***
- **Facility Address:**
- **Telephone Number:**
- **Contact Person:**

### Section 1: Health Assessment (Must be completed by a licensed health care provider by means of a face-to-face examination with the resident.)

<table>
<thead>
<tr>
<th>Known Allergies:</th>
<th>Height:</th>
<th>Weight:</th>
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<tr>
<td>Medical history and diagnoses:</td>
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<td>Physical or sensory limitations:</td>
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<td>Cognitive or behavioral status:</td>
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<td>Nursing/treatment/therapy service requirements:</td>
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<td>Special precautions:</td>
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</table>
TO BE COMPLETED BY FACILITY:  
Resident's Name  
DOB:  

SECTION 1: HEALTH ASSESSMENT (MUST BE COMPLETED BY A LICENSED HEALTH CARE PROVIDER BY MEANS OF A FACE-TO-FACE EXAMINATION WITH THE RESIDENT)

A. To what extent does the individual need supervision or assistance with the following?

<table>
<thead>
<tr>
<th>ACTIVITIES OF DAILY LIVING</th>
<th>I</th>
<th>S*</th>
<th>A*</th>
<th>COMMENTS*</th>
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<td>Ambulation</td>
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<td>Bathing</td>
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<td>Dressing</td>
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<td>Eating</td>
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<td>Self Care (grooming)</td>
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<td>Toileting</td>
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<tr>
<td>Transferring</td>
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</tbody>
</table>

B. Special Diet Instructions

- Regular
- Calorie Controlled
- No Added Salt
- Low Fat/Low Cholesterol

Other, please describe:  

C. Does the individual have any of the following conditions/requirements? If yes, please include an explanation in the comments column.

<table>
<thead>
<tr>
<th>STATUS</th>
<th>YES/NO (Y/N)</th>
<th>COMMENTS</th>
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<tbody>
<tr>
<td>1. A communicable disease, which could be transmitted to other residents or staff?</td>
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<td>2. Bedridden?</td>
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<td>3. Any stage 2, 3, or 4 pressure sores?</td>
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<td>4. Pose a danger to self or others?</td>
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<td>5. Require 24-hour nursing or psychiatric care?</td>
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</table>

D. In your professional opinion, can this individual's needs be met in an assisted living facility, which is not a medical, nursing or psychiatric facility? Yes ___ No ___

Comments (Use additional page if necessary):  

AHCA Form 1823, October 2010

Rule 58A-5.0181, F.A.C.
SECTION 2-A: SELF-CARE AND GENERAL OVERSIGHT ASSESSMENT (MUST BE COMPLETED BY A LICENSED HEALTH CARE PROVIDER BY MEANS OF A FACE-TO-FACE EXAMINATION WITH THE RESIDENT)

A. ABILITY TO PERFORM SELF-CARE TASKS:
Indicate by a checkmark (*) in the appropriate column below the extent to which the individual is able to perform each of the listed self-care tasks. If "needs supervision" or "needs assistance" is indicated, please explain the extent and type of supervision or assistance necessary in the comments column.*

<table>
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<tr>
<th>TASKS</th>
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<th>S*</th>
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<th>COMMENTS*</th>
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<tbody>
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<td>Preparing Meals</td>
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<td>Shopping</td>
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<td>Making Phone Calls</td>
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<td>Handling Personal Affairs</td>
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<td>Handling Financial Affairs</td>
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<td>Other</td>
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B. GENERAL OVERSIGHT:
Indicate by a checkmark (*) in the appropriate column below the extent to which the individual needs general oversight. If other, please explain in the comments column.*

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<th>TASKS</th>
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<th>D</th>
<th>O*</th>
<th>COMMENTS*</th>
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<td>Observing Wellbeing</td>
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<td>Reminders for Important Tasks</td>
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C. ADDITIONAL COMMENTS/OBSERVATIONS (Use additional page if necessary):

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AHCA Form 1823, October 2010
TO BE COMPLETED BY FACILITY:
Resident's Name ____________________________ DOB: ____________________________

SECTION 2-B: SELF-CARE AND GENERAL OVERSIGHT ASSESSMENT—MEDICATIONS (MUST BE COMPLETED BY A LICENSED HEALTH CARE PROVIDER BY MEANS OF A FACE-TO-FACE EXAMINATION WITH THE RESIDENT)

A. Please list all current medications prescribed below (additional pages may be attached):

<table>
<thead>
<tr>
<th>MEDICATION</th>
<th>DOSAGE</th>
<th>DIRECTIONS FOR USE</th>
<th>ROUTE</th>
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B. Does the individual need help with taking his or her medications (meds)? Yes ___ No ___. If yes, please place a checkmark (•) in front of the appropriate box below:

<table>
<thead>
<tr>
<th>Needs Assistance with Self-Administration of Medications</th>
<th>Needs Medication Administration</th>
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C. ADDITIONAL COMMENTS/OBSERVATIONS (Use additional page if necessary):

____________________________________________________________________________________

____________________________________________________________________________________

____________________________________________________________________________________

NOTE: MEDICAL CERTIFICATION IS INCOMPLETE WITHOUT THE FOLLOWING INFORMATION:

NAME OF EXAMINER (Please Print): ____________________________

SIGNATURE OF EXAMINER: ____________________________

MEDICAL LICENSE #: ____________________________

ADDRESS OF EXAMINER: ____________________________

TELEPHONE #: ____________________________

TITLE OF EXAMINER (Please check the appropriate box): MD | DO | ARNP | PA |

DATE OF EXAMINATION: ____________________________

AHCA Form 1823, October 2010

Rule 58A-5.0181, F.A.C.
### SECTION 3: SERVICES OFFERED OR ARRANGED BY THE FACILITY FOR THE RESIDENT (MUST BE COMPLETED BY THE ALF ADMINISTRATOR OR DESIGNEE)

Note: This section must be completed for all residents based on needs identified in Sections 1 and 2 of this form, or electronic documentation, which at a minimum includes the elements below, except for residents receiving the following:

(a) Extended congregate care services (ECC) in a facility holding an ECC license; or
(b) Services under a community living support plan in a facility holding a limited mental health license; or
(c) Medicaid assistive care services, or
(d) Medicaid waiver services.

<table>
<thead>
<tr>
<th>#</th>
<th>Needs Identified from Sections 1 &amp; 2</th>
<th>Service Needed</th>
<th>Service Frequency &amp; Duration</th>
<th>Service Provider Name</th>
<th>Date Service Began</th>
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**NAME OF ADMINISTRATOR OR DESIGNEE:**

(Please Print)

**SIGNATURE OF ADMINISTRATOR OR DESIGNEE:**

**DATE OF SIGNATURE:**

---

AHCA Form 1823, October 2010

Rule 58A-5.0181, F.A.C.
THE AHCA 1823 FORM

1. This form is required for all new admissions in Assisted Living Facilities (ALFs) throughout Florida.

2. The 1823 form will typically have a list of all current drugs orders and a physician's signature.

3. Does this form constitute a valid prescription when the physician signs the form?
   
   - The Board of Pharmacy views residents living in an Assisted Living Facility in Florida to be Community based patient.
   
   - CMS does not recognize an Assisted Living Facility as a Long Term Care Facility.
   
   - Community based prescriptions must have a patient name, a date, a drug name and strength, a quantity to be dispensed, refill instructions, a prescriber's signature plus (prescriber's address and DEA number if the drug is a controlled substance).
   
   - This form does not typically include a dispense quantity or refill directions therefore it does not meet the B.O.P. standards for a valid prescription.
   
   - This form should be considered a summary of current orders and not a valid prescription.
   
   - Third party audits may take back the entire payments on any medication that was filled using the 1823 as the original order.
   
   - There may be situations where the pharmacy fills several days of non-controlled medication from the signed 1823 Form until the prescriber can be reached for complete information. It should be noted however that there are no B.O.P. regulations that cover this practice.
### Medication Review

<table>
<thead>
<tr>
<th>Facility Name:</th>
<th>Event ID:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Surveyor:</td>
<td>Date:</td>
</tr>
<tr>
<td>Facility Type: ALF:</td>
<td>AFCH:</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Resident ID:</th>
<th>Med Mode:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Label:</td>
<td>MOR:</td>
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<td></td>
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AHCA FORM 3180-1030, Revised May 2011 – HQA Field Operations
Title: Medications - Pill Organizers
Statute or Rule: 88A-5.01(16) FAC
Type: Rule

Regulatory Definition

(2) PILL ORGANIZERS.

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

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

(c) A nurse may manage a pill organizer to be used only by 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;
4. Document the date and time the pill organizer was filled in the resident’s record;

(d) If there is determination that the resident is not taking medications as prescribed after the medication 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.

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 resident’s medication management, and progress notes of those residents to determine if 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 refill 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 consulted 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?
7.13

Agency for Health Care Administration

Aspen State Regulation Set: A 4.08 Assisted Living Facility

as the resident’s medications. Such communication must be
documented in the resident’s record.

ST - A0052 - Medication - Assistance with Self-Admin

Title: Medication - Assistance with Self-Admin

Statute or Rule: 58A-5.0105(3) F.A.C.

Type: Rule

<table>
<thead>
<tr>
<th>Regulation Definition</th>
<th>Interpretive Guideline</th>
</tr>
</thead>
<tbody>
<tr>
<td>(3) ASSISTANCE WITH SELF-ADMINISTRATION</td>
<td></td>
</tr>
<tr>
<td>(a) Any unlicensed person providing assistance with self-administration of medication must be 18 years of age or older, trained to assist with self-administered medication pursuant to the training requirements of Rule 58A-5.0101, 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.</td>
<td></td>
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<tr>
<td>(b) In addition to the specifications of Section 429.256(3), F.S., assistance with self-administration of medication includes verbally prompting a resident to take medications as prescribed.</td>
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<tr>
<td>(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.</td>
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<tr>
<td>(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.</td>
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<tr>
<td>(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</td>
<td></td>
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</tbody>
</table>
Agency for Health Care Administration
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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 record;
4. Medications may be separately prescribed and dispensed in an exterior to use form, such as unit dose packaging;
5. Assistance with self-administration of medication does not include the activities detailed in Section 428:2560(4), F.S.
1. As used in Section 428:2560(4)(a), F.S., the term “nonresident” means that the resident is not a resident of the facility.
2. As used in Section 428:2560(4)(d), F.S., the terms “judgment” and “discretion” mean interpreting clinical signs and evaluating or assessing a resident’s condition.

ST - 40053 - Medication - Administration

Title: Medication - Administration
Statute or Rule: 88A-5.138(1) FAC
Type: Rule

Regulation Definition

(4) MEDICATION ADMINISTRATION.
(4) 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.

Interpretive Guideline

Surveyor Probe:
Medication administration includes conducting any examination or testing such as blood glucose testing or other procedures necessary for the proper administration of medication the resident cannot personally conduct and can only be performed by licensed staff.
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(b) Unusual reactions or a significant change in the resident’s health or behavior 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 consulting any examination or testing, such as blood glucose testing, or other procedures 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 residents, including blood glucose testing, must be in compliance with the federal Clinical Laboratory Improvement Amendments of 1988 (CLIA) and Part I of Chapter 403, F.S.

A valid copy of the State Clinical Laboratory License, if required, and the federal CLIA Certificate must be maintained in the facility. A state license or 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 State Clinical Laboratory License or a federal CLIA Certificate if facility staff assist residents in performing clinical laboratory testing with the residents’ equipment. Information about the State Clinical Laboratory License and federal CLIA Certificate is available from the Laboratory Unit, Agency for Health Care Administration, 2727 Mahan Drive, Mail Stop 92, Tallahassee, FL 32310; telephone (850) 412-4500.

ST - A0054 - Medication - Records

Title: Medications - Records

Statute or Rule: 64A-4.018(5) F.A.C.

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

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Regulation Definition

7.16 (c) MEDICATION RECORDS.
(d) For medications that are dispensed in a pill container managed in
subsection (c), 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.
(e) The facility must maintain a daily medication observation
record (MOR) for each resident who receives assistance with
self-administration of medications or medication
administration. A medication observation record must include
the name of the resident and any known allergies the resident
may have; the name of the resident’s health care provider; the
health care provider’s telephone number; the resident’s
strengths and directions for use of each medication; and a chart for
recording each time the medication is taken, any missed
dosages, refills to take medication as prescribed, or
medication errors. The medication observation record must be
immediately updated each time the medication is offered or
administered.
(f) For medications that serve as chemical restraints, the
facility must, pursuant to Section 429.4, F.S., maintain a
record of the prescribing physician’s annual evaluation of the
use of the medication.

Interpretive Guideline

Surveyor Probe:
Review the resident’s record as necessary to determine compliance.

All MORs must be accurate and up-to-date.

Surveyor Probes:
Study the MOR for any omissions, delays, pre-dating of medications.
MOR documents reasons for omission of delay.
MOR must be signed at time medication is given.

Look for medications that are pre-signed by staff.

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

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 or Rule: Medication - Storage and Disposal
Statute or Rule: 36A-40-518(4)(f)(4)
Type: Rule
Regulation Definition

(6) Medication Storage and Disposal.

6. 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 or in the possession of a relative, friend, or health care provider, or in a designated area in the facility. Medications must be stored in a safe and secure manner, and access to medications must be limited to authorized personnel.

Interpretive Guideline

(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.

Surveys must observe whether OTC products are stored and note whether the medications cabinet, room, medication cart or other area is locked and the key is out of sight.

During the facility tour, observe whether there are OTC products visible in the storage area, shelves, or cabinets. 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 secure in resident room or apartment and the resident requests facility courtesy storage, their medications must be carefully stored.

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.
7.18

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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, 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.
(c) 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 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.
(d) When a resident’s stay in the facility has ended, the administrator must return all medications to the resident, the resident’s family, or the resident’s guardian unless otherwise prohibited by law. If, after notification and waiting at least 15 days, the resident’s medications are still at the facility, the medications are considered abandoned and may be disposed of in accordance with paragraph (e).
(e) 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.
(f) Facilities that hold a Special-ALF permit issued by the Board of Pharmacy may return dispensed medicinal drugs to the dispensing pharmacy pursuant to Rule 58016-298.870, F.A.C.
(7) MEDICATION LABELING AND ORDERS.

6. The facility may store prescription drugs for self-administration, assistance with self-administration, or administration unless it is properly labeled and dispensed in accordance with Chapters 405 and 409, F.S., and Rule 64B6-28.108, F.A.C. If a customized patient medication package is prepared for a resident and separated into individual medication drug containers, then the following information must be recorded on each individual container:

1. The resident’s name and
2. Identification of the medication drug in the container.

6. 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.

6. 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.

6. Any change in directions for use of a medication for which the facility is providing assistance with self-administration or

Surveyor Probes:

Examine all 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 or tampered prescription medications.

Interview staff about unlabeled drugs.

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 procedures are to ensure that dosages are not missed. Do medication records reflect missed doses? 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?
7.20

administering medication must be accompanied by a written
medication order issued and signed by the resident’s/health
care provider, or a facsimile or electronic copy of such order. The
new directions must promptly be recorded in the resident’s
medication observation record. The facility may then place an
“alert” label on the medication container that directs staff to
examine the revised directions for use in the medication
observation record, or obtain a revised label from the
pharmacist.

(c) 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 facsimile or electronic copy of a signed order
is acceptable.

(d) 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.

(e) Pursuant to Section 665.084(3), F.S., and Rule
665-1.006, 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.
Aspen State Regulation Set: A 4.09 Assisted Living Facility

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

Title: Medication - Over The Counter (OTC) Products

Statute or Rule: 58A-5.01 (RS) FAC

Type: Rule

Regulation Definition

(6) OVER THE COUNTER (OTC) PRODUCTS. For purposes of this subsection, the term over-the-counter includes, but is not limited to, over the counter medications, vitamins, nutritional supplements and homecare aids, hereafter referred to as OTC products, that can be sold without a prescription.

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

(b) OTC products, including those prescribed by a health care provider, 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.

Interpretive Guideline

A stock supply of OTC products for multiple resident use is not permitted because ALFs do not have institutional pharmacy permits.

Look for OTC products and determine if a residents name appears on a label reason for the OTC use.

When an OTC product is prescribed by a physician, the medication becomes a prescription and must be properly labeled by a pharmacist or physician.
Title: Pharmacy & Dietary, Uncorrected Deficiencies

Statute or Rule: 429-62(1-2) FS, S8A-5.015(3)(b) F.A.C.

Type: Rule

Regulation Definition

429-62 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 medication 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 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.

S8A-5.015(3)(b)

(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 in Rule S8A-5.015, 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 465-06.25, F.S., or registered nurse as determined by the agency.

2. After developing and implementing a corrective action plan in compliance with Section 465-06.25, 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, 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.

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**Title:** Use of Personnel, Emergency Care (AED)

**Statute or Rule:** 465-06.25, F.S.

**Type:** Rule

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<table>
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<tr>
<th>Regulation Definition</th>
<th>Interpretive Guideline</th>
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<tbody>
<tr>
<td>(36a) 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. 706.132(2)(b).</td>
<td></td>
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<tr>
<td>(b) The facility is encouraged to register the location of each defibrillator.</td>
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automated external defibrillator with a local emergency medical services medical director.

4) The provisions of ss. 708.13 and 708.1325 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. 408.45. The department shall adopt rules providing for the implementation of such orders. Facility staff and facilities shall 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 department. The absence of an order to resuscitate executed pursuant to s. 408.45 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 Department of Elderly Affairs may adopt rules to implement the provisions of this section relating to use of an automated external defibrillator.

ST - A0076 - Do Not Resuscitate Orders (DNRs)

Title: Do Not Resuscitate Orders (DNRs)

Statute or Rule: 98A-5.0186 FAC

Type: Rule

Regulation Definition

(1) POLICIES AND PROCEDURES

6. 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 (DNRs). An assisted living facility may not require execution of a DNR as a condition of admission or treatment. The assisted living facility must...

Interpretive Guideline

Surveyor Probe:

Review policies and procedures for DNRs as necessary for compliance determination.
ALF Legislative Update

Diane Marcello, Chair | Al Pasini, CAE, Interim President/CEO

LeadingAge Florida | 1812 Riggins Road, Tallahassee, FL 32308
Phone: (850) 671.3700 | Fax: (850) 671.3790 | Web: www.LeadingAgeFlorida.org

TO: LeadingAge Florida ALF Members
FROM: LeadingAge Florida Public Policy Team
DATE: April 29, 2015
SUBJECT: Comprehensive ALF Bill Passes Legislature

History:

In 2010, Governor Scott convened a Task Force to study and develop comprehensive regulatory changes to address a Miami Herald investigative report which found some very disturbing and life threatening situations in a few Assisted Living Facilities. Two LeadingAge Florida members (Brian Robare and Darlene Arbelit) served on the Task Force.

After four attempts to pass comprehensive reform, the 2015 Legislature on April 27 finally passed a lengthy ALF bill (CS/CS/HB-1001). Final Senate action on the bill occurred the day before the House abruptly called the 2015 Legislative Session to a close -- three days earlier than scheduled.

Representative Larry Ahern (R) Seminole and Senator Eleanor Sobel (D) Hollywood were the two key players in the passage of this legislation. Both legislators were very receptive and sought input from the various provider representatives. LeadingAge Florida public policy staff joined with other interested parties in advocating for changes to the bill as it made its way through the committee process. We are pleased to report the end product does not include three provisions that LeadingAge Florida members opposed: a revised system for fining ALFs based on the number of licensed beds, a consumer blog, and authority for the Agency for Health Care Administration to pull an Extended Care License if the ALF did not serve residents who needed ECC services over a specified period of time.

To view the enrolled bill CS/CS/HB-1001, click here

A summary of CS/CS/HB-1001 follows. Please note that changes most important to members are preceded with an asterisk.

Section 1:

- Amends s. 394.4576 to clarify that Medicaid Managed Care Plans are responsible for enrolled state-supported mental health residents and that managing entities under contract with the DCF are responsible for such residents who are not enrolled with a Medicaid health plan.

- Requires that the case manager of a mental health resident who resides in and ALF with a limited mental health license be provided to the administrator within 30 days of the
residents' admission a community living support plan.

- Requires that the case manager update the community living support plan annually or when there is a significant change in the resident's behavioral health status. Case manager will be required to maintain face to face interaction with the resident and make records available to the responsible entity for inspection.

- Requires mental health providers to retain records for 2 years.

- Requires case managers to consistently monitor Community living support plans and cooperative agreements.

Section 2:

- *Amends s. 429.0074 to require that any administrative assessment of an ALF completed by a representative of the local Ombudsman Council be comprehensive. In addition upon the completion of the assessment, requires the local Ombudsman Council to conduct an exit consultation with the facility's administrator or designee to discuss issues and concerns in the areas affecting residents, rights, safety, and welfare and, if needed, make recommendations for improvement.

Section 3:

- Amends s. 400.0078 to require ALFs to inform new residents that retaliatory action cannot be taken against a resident for presenting grievances and/or excising any other right. This must be done in addition to giving information to new residents about the state Long-Term Care Ombudsman Program.

Section 6: Extended Congregate Care/Limited Nursing License

- Amends s. 429.07 to specify that an ALF must be licensed for at least 2 years to qualify for an ECC license.

- Clarifies that AHCA may revoke or deny an ECC License for not meeting any of the regulatory criteria in law.

- Creates a provisional ECC license, not to exceed six months, for an ALF that has been licensed for less than 2 years. Requires such providers to notify AHCA after they admit one ECC resident. Authorizes AHCA to issue a regular ECC license if upon inspection the ALF meets all of the requirements for ECC licensure. The Bill does not include language opposed by LeadingAge Florida that would have voided the provisional license if an ECC resident was not enrolled within 3 months of issuance of the license.

- *Reduces monitoring visits for facilities with an ECC license from quarterly to twice a year and authorizes AHCA to waive one of the monitoring visits if the facility has held an ECC license for at least 24 months and has had no class I or class II violations or uncorrected class III violations and no Ombudsman Council complaints that resulted in a licensure citation.

- *Reduces the monitoring visit for facilities with a limited nursing license from twice a year to at least annually and authorizes AHCA to make the visit in conjunction with other agency inspections or wave the annual monitoring visit if the facility has no class I and II
violations and no uncorrected class III violations and no Ombudsman Council complaint that resulted in a citation for licensure. This change should benefit several LeadingAge Florida members.

Section 8.9 & 10: Violations and Penalties

- Amends s. 429.14 to replace the term “deficiencies” with “violations.”
- Specifies that AHCA must deny or revoke a license for the following:
  a. 2 or more moratoria issues and in final order within a 2 year period.
  b. 2 or more class I violations arising from unrelated circumstances during the same period of time.
  c. 2 or more class I violation arising from separate surveys or investigation.
- Requires AHCA to impose an immediate moratorium on an ALF that fails to provide surveyors with access to the facility and prohibits a licensee from restricting access by AHCA staff to any records or from conducting confidential interviews with facility staff and residents.
- Provides an exemption from the 45-day notice required of ALFs to inform residents of their relocation if the relocation is due to AHCA action.
- Requires AHCA to impose a $500 if a facility is not in compliance with background screening requirements for staff.

*Section 11: Assistance with Self-Administration of Medication:

- Amends s. 429.256 to allow ALF staff who have completed required training to do the following additional tasks:
  a. Assist with an insulin syringe that is prefilled by a pharmacist and an insulin pen that is prefilled by the manufacturer.
  b. Assist with the use of a nebulizer.
  c. Assist with use of a glucometer to perform blood-glucose level checks.
  d. Assist with putting on and taking off anti-embolism stockings.
  e. Assist with oxygen cannula but not with titration of the prescribed oxygen settings.
  f. Assist with measuring vital signs.
  g. Assist with colostomy bag.

Section 12: Property and Personal Affairs of Residents:

- Amends s. 429.27(3) to increases the amount of cash that a facility may provide safekeeping for a resident from $200 to $500.

Section 13: Resident bill of rights:

- Amends s. 429.28 to require ALFs to include Disability Rights Florida (DRF) in the required posted notice of Residents Rights. The notice must also state that a complaint has been made the names and identities of the residents involved in a complaint to the State Ombudsman Council will remain confidential.
- Directs AHCA to adopt rules for uniform standards and criteria that will be used to determine compliance with facility standards and compliance with residents’ rights.
- Requires AHCA to impose a fine of $2,500 if an ALF terminates the residency of an
individual who participates in activities to exercise any right under this section, appears as witness in any hearing inside or outside a facility and files a civil action.

Section 14: Right of Entry and Inspection:
- Amends s. 429.34 to require any person with knowledge or reasonable cause to suspect that a vulnerable adult has been or is being abused, neglected or exploited to immediately report the incident to the central abuse hotline.
- Requires AHCA to inspect every ALF every 24 months to determine regulatory compliance.

Section 15: Rules establishing standards:
- "Amends s. 429.41 to clarify that staffing requirements for CCRCs or a community providing multiple levels that license a building designated for independent living for assisted living apply only to residents who receive personal, limited nursing or extended congregate care services. This is a change that LeadingAge Florida pursued successfully to the last ALF rule changes. It is now law so it can no longer be challenged or questioned without a change in law.
- Required such facilities to retain a log of names and unit numbers of residents receiving ALF services and make this information available to surveyors.

Section 16: Staff training and Educational programs:
- Amends s. 429.52 to specify that effective October 1, 2015, each NEW facility employee who has not previously completed core training must attend a pre-service orientation of at least 2 hours by the facility before interacting with residents. Requires that a signed statement by employee and administrator be placed in the employee’s file to verify compliance.

Section 17: Web-Page
- Amends s. 429.55 to create a modified and expanded ALF consumer web-page, expanding on the current information on AHCA’s website that you can find in Healthfinder.gov currently. The expanded web-page will include a significant amount of additional information intended to help consumers when selecting an ALF. There is no “Blog” about the legislation.

Section 18: Effective Date 7/1/15
<table>
<thead>
<tr>
<th>SUBJECT</th>
<th>NURSING HOMES</th>
<th>ALF’S</th>
</tr>
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<tbody>
<tr>
<td>Pharmacy receives and fills new telephone RX from facility staff</td>
<td>This is an acceptable practice in a nursing home</td>
<td>New verbal RX's should be verified with prescriber and must contain quantity and refill info (same as a community rx)</td>
</tr>
<tr>
<td>Pharmacy receives a directions change on an existing order</td>
<td>The drug may be picked up and relabeled, replaced with a new container or an ancillary label can be used to indicate &quot;order change - refer to MAR)&quot;</td>
<td>The drug may be picked up and relabeled, replaced with a new container (if special ALF Pharmacy license in place) or an ancillary label can be used to indicate &quot;order change - refer to MAR)&quot;</td>
</tr>
<tr>
<td>A medication is discontinued</td>
<td>The drug may be returned for credit as long as the product is unit dosed, non-controlled, and in the possession of nursing staff. Controlled substances cannot be returned to Pharmacy</td>
<td>The drug may be returned for credit as long as the product is unit dosed, non-controlled, and in the possession of nursing staff (only in those ALF's with a Special ALF Pharmacy license). Controlled substances cannot be returned to Pharmacy</td>
</tr>
<tr>
<td>A residents has a RX retirement benefit and the facility asks the vendor Pharmacy to repackage meds dispensed by retirement plan</td>
<td>Florida law requires the vendor Pharmacy to repackage meds from retirement plan and can charge for this service. DEA does not allow a registrant (i.e. Pharmacy) to handle controls dispensed by another DEA registrant</td>
<td>Florida law does not allow the vendor Pharmacy servicing an ALF to repackage medications from another Pharmacy. This law is specific to nursing homes only</td>
</tr>
<tr>
<td>The facility requests a refill on an existing order which has run out of refills</td>
<td>The Physician signature on the monthly POS gives authorization to refill the medication. Exclusions would include CII meds and drugs with a specific stop date</td>
<td>A prescription in the ALF is treated as an RX in retail practice. The prescriber must be contacted for refill authorization</td>
</tr>
<tr>
<td>The Pharmacy receives a faxed order for a new Schedule II drug</td>
<td>DEA allows the Pharmacy to treat faxed CII orders from a nursing home (and Hospice) as the original hard copy script</td>
<td>DEA does not address this practice in the ALF therefore the Pharmacy is required to handle the order as an &quot;Emergency Telephone Order&quot; and must obtain a written RX per DEA regs</td>
</tr>
<tr>
<td>The facility(or Physician) asks that a resident's medication to be stored in their room</td>
<td>Federal regulations only allow life saving medication to be stored in the residents room. This is limited to NTG products and fast acting inhalers</td>
<td>The resident is allowed to store meds in their room as long as their Physician has not written an order for supervision of medication administration</td>
</tr>
<tr>
<td>A residents leaves the facility and wishes to take his/her medication with them</td>
<td>In the nursing home the physician must write an order that would allow the resident to be released with their medication</td>
<td>In the ALF a resident can be released with their medication without any special requirements</td>
</tr>
<tr>
<td>Floor Stock (OTC drugs)</td>
<td>The nursing home is allowed to have OTC floor stock. If they service Medicaid residents they must provide certain OTC categories for these residents</td>
<td>The ALF CANNOT have floor stock products. All medication must be labeled &quot;patient specific&quot;</td>
</tr>
<tr>
<td>Emergency Kits</td>
<td>The nursing home is required to have an emergency kit in the facility at all times</td>
<td>The ALF CANNOT have an Emergency kit even if they have a Special ALF Pharmacy license</td>
</tr>
</tbody>
</table>
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 achieve 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.

(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) Access to adequate and appropriate health care 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 shall be set forth in writing. 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.

(l) 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. This notice shall include the name, address, and telephone numbers of the local ombudsman council and central abuse hotline and, when applicable, the Advocacy Center for Persons with Disabilities, Inc., and the Florida local advocacy council, where complaints may be lodged. The facility must ensure a resident’s access to a telephone to call the local ombudsman council, central abuse hotline, Advocacy Center for Persons with Disabilities, Inc., and the Florida local advocacy council.

(3)(a) The agency shall conduct a survey to determine general compliance with facility standards and compliance with residents’ rights as a prerequisite to initial licensure or licensure renewal.

(b) In order to determine whether the facility is adequately protecting residents’ rights, the biennial survey shall include private informal conversations with a sample of residents and consultation with the ombudsman council in the planning and service area in which the facility is located to discuss residents’ experiences within the facility.

(c) During any calendar year in which no survey is conducted, the agency shall conduct at least one monitoring visit of each facility cited in the previous year for a class I or class II violation, or more than three uncorrected class III violations.
(d) The agency may conduct periodic followup inspections as necessary to monitor the compliance of facilities with a history of any class I, class II, or class III violations that threaten the health, safety, or security of residents.

(e) The agency may conduct complaint investigations as warranted to investigate any allegations of noncompliance with requirements required under this part or rules adopted under this part.

(4) The facility shall not hamper or prevent residents from exercising their rights as specified in this section.

(5) No facility or employee of a facility may serve notice upon a resident to leave the premises or take any other retaliatory action against any person who:

(a) Exercises any right set forth in this section.
(b) Appears as a witness in any hearing, inside or outside the facility.
(c) Files a civil action alleging a violation of the provisions of this part or notifies a state attorney or the Attorney General of a possible violation of such provisions.

(6) Any facility which terminates the residency of an individual who participated in activities specified in subsection (5) shall show good cause in a court of competent jurisdiction.

(7) Any person who submits or reports a complaint concerning a suspected violation of the provisions of this part or concerning services and conditions in facilities, or who testifies in any administrative or judicial proceeding arising from such a complaint, shall have immunity from any civil or criminal liability therefor, unless such person has acted in bad faith or with malicious purpose or the court finds that there was a complete absence of a justiciable issue of either law or fact raised by the losing party.

History.—ss. 12, 31, ch. 80-198; s. 2, ch. 81-318; ss. 55, 75, 79, 83, ch. 83-181; s. 53, ch. 83-218; s. 65, ch. 91-221; s. 19, ch. 91-263; ss. 23, 38, 39, ch. 93-216; s. 778, ch. 95-148; s. 11, ch. 95-418; s. 17, ch. 98-80; s. 20, ch. 2000-263; ss. 76, 143, ch. 2000-349; s. 63, ch. 2000-367; s. 38, ch. 2001-45; ss. 2, 51, ch. 2006-197.
58A-5.0185 Medication Practices.
Pursuant to Sections 429.255 and 429.256, F.S., and this rule, licensed facilities may assist with the self-administration or administration of medications to residents in a facility. A resident may not be compelled to take medications but may be counseled in accordance with this rule.

(1) SELF ADMINISTERED MEDICATIONS.
(a) Residents who are capable of self-administering their medications without assistance shall be encouraged and allowed to do so.
(b) If facility staff note deviations which could reasonably be attributed to the improper self-administration of medication, staff shall consult with the resident concerning any problems the resident may be experiencing with the medications; the need to permit the facility to aid the resident through the use of a pill organizer, provide assistance with self-administration of medications, or administer medications if such services are offered by the facility. The facility shall contact the resident’s health care provider when observable health care changes occur that may be attributed to the resident’s medications. The facility shall document such contacts in the resident’s records.

(2) PILL ORGANIZERS.
(a) A “pill organizer” means a container which is designed to hold solid doses of medication and is divided according to day and time increments.
(b) A resident who self-administers medications may use a pill organizer.
(c) A nurse may manage a pill organizer to be used only by residents who self-administer medications. The nurse is responsible for instructing the resident in the proper use of the pill organizer. The nurse shall 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 shall be noted in the resident’s record and the facility shall consult with the resident concerning providing assistance with self-administration or the administration of medications if such services are offered by the facility. The facility shall contact the resident’s health care provider regarding questions, concerns, or observations relating to the resident’s medications. Such communication shall be documented in the resident’s record.

(3) ASSISTANCE WITH SELF-ADMINISTRATION.
(a) For facilities which provide assistance with self-administered medication, either: a nurse; or an unlicensed staff member, who is at least 18 years old, trained to assist with self-administered medication in accordance with Rule 58A-5.0191, F.A.C., and able to demonstrate to the administrator the ability to accurately read and interpret a prescription label, must be available to assist residents with self-administered medications in accordance with procedures described in Section 429.256, F.S.
(b) Assistance with self-administration of medication includes verbally prompting a resident to take medications as prescribed, retrieving and opening a properly labeled medication container, and providing assistance as specified in Section 429.256(3), F.S. In order to facilitate assistance with self-administration, staff may prepare and make available such items as water, juice, cups, and spoons. Staff may also return unused doses to the medication container. Medication, which appears to have been contaminated, shall not be returned to the container.
(c) Staff shall observe the resident take the medication. Any concerns about the resident’s reaction to the medication shall be reported to the resident’s health care provider and documented in the resident’s record.
(d) When a resident who receives assistance with medication is away from the facility and from facility staff, the following options are available to enable the resident to take medication as prescribed:
   1. The health care provider may prescribe a medication schedule which coincides with the resident’s presence in the facility;
   2. The medication container may be given to the resident or a friend or family member upon leaving the facility, with this fact noted in the resident’s medication record; 58A-5 ASSISTED LIVING FACILITIES OCTOBER 2010 Page 16
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 record; or

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

(e) Pursuant to Section 429.256(4)(h), F.S., the term “competent resident” means that the resident is cognizant of when a medication is required and understands the purpose for taking the medication.

(f) Pursuant to Section 429.256(4)(i), F.S., the terms “judgment” and “discretion” mean interpreting vital signs and evaluating or assessing a resident’s condition.

(4) MEDICATION ADMINISTRATION.

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

(b) Unusual reactions or a significant change in the resident’s health or behavior shall be documented in the resident’s record and reported immediately to the resident’s health care provider. The contact with the health care provider shall also be documented in the resident’s record.

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

(d) A facility which performs clinical laboratory tests for residents, including blood glucose testing, must be in compliance with the federal Clinical Laboratory Improvement Amendments of 1988 (CLIA) and Part I of Chapter 483, F.S. A valid copy of the State Clinical Laboratory License and the CLIA Certificate must be maintained in the facility. A state license or 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 State Clinical Laboratory License or a CLIA Certificate if facility staff assist residents in performing clinical laboratory testing with the residents’ own equipment. Information about the State Clinical Laboratory License and CLIA Certificate is available from the Clinical Laboratory Licensure Unit, Agency for Health Care Administration, 2727 Mahan Drive, Mail Stop 32, Tallahassee, FL 32308; telephone (850)487-3109.

(5) MEDICATION RECORDS.

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

(b) The facility shall maintain a daily medication observation record (MOR) for each resident who receives assistance with self-administration of medications or medication administration. A MOR must include the name of the resident and any known allergies the resident may have; the name of the resident’s health care provider, the health care provider’s telephone number; the name, strength, and directions for use of each medication; and a chart for recording each time the medication is taken, any missed dosages, refusals to take medication as prescribed, or medication errors. The MOR must be immediately updated each time the medication is offered or administered.

(c) For medications which serve as chemical restraints, the facility shall, pursuant to Section 429.41, F.S., maintain a record of the prescribing physician’s annual evaluation of the use of the medication.

(6) MEDICATION STORAGE AND DISPOSAL.

(a) In order to accommodate the needs and preferences of residents and to encourage residents to remain as independent as possible, residents may keep their medications, both prescription and over-the-counter, in their possession both on or off the facility premises; or in their rooms or apartments, which must be kept locked when residents are absent, unless the medication is in a secure place within the rooms or apartments or in some other secure place which is out of sight of other residents. However, both prescription and over-the-counter medications for residents shall be centrally stored if:

1. The facility administers the medication;

2. The resident requests central storage. The facility shall 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 prior to admission as required under Rule 58A-5.0181, F.A.C.
(b) Centrally stored medications must be:
1. Kept in a locked cabinet, locked cart, or other locked storage receptacle, room, or area at all times;
2. Located in an area free of dampness and abnormal temperature, except that a medication requiring refrigeration shall be refrigerated. Refrigerated medications shall be secured by being kept in a locked container within the refrigerator, by keeping the refrigerator locked, or by keeping the area in which refrigerator is located locked;
3. Accessible to staff responsible for filling pill-organizers, assisting with self-administration, or administering medication. Such staff must have ready access to keys to the medication storage areas at all times; and
4. Kept separately from the medications of other residents and properly closed or sealed.
(c) Medication which has been discontinued but which has not expired shall be returned to the resident or the resident’s representative, as appropriate, or may be centrally stored by the facility for future resident use by the resident at the resident’s request. If centrally stored by the facility, it shall be stored separately from medication in current use, and the area in which it is stored shall be marked “discontinued medication.” Such medication may be reused if re-prescribed by the resident’s health care provider.
(d) When a resident’s stay in the facility has ended, the administrator shall return all medications to the resident, the resident’s family, or the resident’s guardian unless otherwise prohibited by law. If, after notification and waiting at least 15 days, the resident’s medications are still at the facility, the medications shall be considered abandoned and may disposed of in accordance with paragraph (e).
(e) Medications which have been abandoned or which have expired must be disposed of within 30 days of being determined abandoned or expired and disposition shall be documented in the resident’s record. The medication may be taken to a pharmacist for disposal or may be destroyed by the administrator or designee with one witness.
(f) Facilities that hold a Special-ALF permit issued by the Board of Pharmacy may return dispensed medicinal drugs to the dispensing pharmacy pursuant to Rule 64B16-28.870, F.A.C.

(7) MEDICATION LABELING AND ORDERS.
(a) No prescription drug shall be kept or administered by the facility, including assistance with self-administration of medication, unless it is properly labeled and dispensed in accordance with Chapters 465 and 499, F.S., and Rule 64B16-28.108, F.A.C. If a customized patient medication package is prepared for a resident, and separated into individual medicinal drug containers, then the following information must be recorded on each individual container:
1. The resident’s name; and
2. Identification of each medicinal drug product in the container.
(b) Except with respect to the use of pill organizers as described in subsection (2), no person other than a pharmacist may transfer medications from one storage container to another.
(c) If the directions for use are “as needed” or “as directed,” the health care provider shall be contacted and requested to provide revised instructions. For an “as needed” prescription, the circumstances under which it would be appropriate for the resident to request the medication and any limitations shall be specified; for example, “as needed for pain, not to exceed 4 tablets per day.” The revised instructions, including the date they were obtained from the health care provider and the signature of the staff who obtained them, shall be noted in the medication record, or a revised label shall be obtained from the pharmacist.
(d) Any change in directions for use of a medication for which the facility is providing assistance with self-administration or administering medication must be accompanied by a written medication order issued and signed by the resident’s health care provider, or a faxed copy of such order. The new directions shall promptly be recorded in the resident’s medication observation record. The facility may then place an “alert” label on the medication container which directs staff to examine the revised directions for use in the MOR, or obtain a revised label from the pharmacist.
(e) A nurse may take a medication order by telephone. Such order must be promptly documented in the resident’s medication observation record. The facility must obtain a written medication order from the health care provider within 10 days.
working days. A faxed copy of a signed order is acceptable.

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

(g) Pursuant to Section 465.0276(5), F.S., and Rule 64F-12.006, 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 shall also 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 shall 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 shall provide the resident with a written prescription, or a fax copy of such order.

(8) OVER THE COUNTER (OTC) PRODUCTS. For purposes of this subsection, 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.

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

(b) OTC products, including those prescribed by a licensed health care provider, must be labeled with the resident’s name and the manufacturer’s label with directions for use, or the licensed health care provider’s directions for use. No other labeling requirements are necessary nor should be required.

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

(d) A facility cannot require a licensed health care provider’s order for all OTC products when a resident self-administers his or her own medications, or when staff provides assistance with self-administration of medications pursuant to Section 429.256, F.S. A licensed health care provider’s order is required when a licensed nurse provides assistance with self-administration or administration of medications, which includes OTC products. When such an order for an OTC product exists, only the requirements of paragraphs (b) and (c) of this subsection are required.

Rulemaking Authority 429.256, 429.41 FS. Law Implemented 429.255, 429.256, 429.41 FS. History–New 10-17-99, Amended 7-30-06, 4-15-10, 10-14-10.
(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 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.

(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 and topical ophthalmic, otic, and nasal dosage forms including solutions, suspensions, sprays, and inhalers.

(3) Assistance with self-administration of medication includes:

(a) Taking the medication, in its previously dispensed, properly labeled container, from where it is stored, and bringing it to the resident.

(b) In the presence of the resident, reading the label, opening the container, removing a prescribed amount of medication from the container, and closing the container.

(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.

(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 through intermittent positive pressure breathing machines or a nebulizer.
(d) Administration of medications by way of a tube inserted in a cavity of the body.

(e) Administration of parenteral preparations.

(f) Irrigations or debriding agents used in the treatment of a skin condition.

(g) Rectal, urethral, or vaginal preparations.

(h) 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 at the request of a competent resident.

(i) 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.

(6) The department may by rule establish facility procedures and interpret terms as necessary to implement this section.

History.—s. 16, ch. 98-80; s. 214, ch. 99-13; ss. 2, 48, ch. 2006-197.

Note.—Former s. 400.4256.