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ST - N0000 - INITIAL COMMENTS

Title INITIAL COMMENTS

Rule

Type Memo Tag

Regulation Definition

Interpretive Guideline

ST - N0001 - License Required

Title License Required

Rule 400.062, F.S.

Type Rule

Regulation Definition

Interpretive Guideline

400.062 License required

Also see Federal reference 42 CFR 483.75(a)

(1) It is unlawful to operate or maintain a facility without first obtaining from the agency a license authorizing such operation.

(2) Separate licenses shall be required for facilities maintained in separate premises, even though operated under the same management. However, a separate license shall not be required for separate buildings on the same grounds.

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ST - N0002 - Application for Licensure

Title Application for Licensure

Rule 400.071, F.S.

Type Rule

Regulation Definition

Interpretive Guideline

400.071

(1) An application for a license as required by s. 400.062 shall be made to the agency on forms furnished by it and shall be accompanied by the appropriate license fee.

59A-4.103

(1) The licensee or prospective licensee shall make application for an initial, renewal or change of ownership license to operate a nursing home facility and shall provide all of the information required.

ST - N0010 - Administrator Required

Title Administrator Required

Rule 400.141(1), F.S.

Type Rule

Regulation Definition

Interpretive Guideline

400.141

Every licensed facility shall comply with all applicable standards and rules of the agency and shall:

(1) Be under the administrative direction and charge of a licensed administrator.

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400.20

Licensed nursing home administrator required.--No nursing home shall operate except under the supervision of a licensed nursing home administrator, and no person shall be a nursing home administrator unless he or she is the holder of a current license as provided in chapter 468.

59A-4.103(4)

The licensee shall designate one person, who is licensed under Chapter 468, Part II, as administrator who oversees the day to day administration and operation of the facility.

ST - N0011 - Table of Organization

Title Table of Organization

Rule 59A-4.103(4)(c), F.A.C.

Type Rule

Regulation Definition

Interpretive Guideline

59A-103(4)(c)

The nursing home facility shall be organized according to a written Table of Organization.

ST - N0020 - Fiscal Records

Title Fiscal Records

Rule 400.141(11), F.S.

Type Rule

Regulation Definition

Interpretive Guideline

400.141

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Every licensed facility shall comply with all applicable standards and rules of the agency and shall:

(11) Keep such fiscal records of its operations and conditions as may be necessary to provide information pursuant to this part.

59A-4.103(5)(a)

The licensee, for each nursing home it operates, shall maintain fiscal records in accordance with the requirements of Chapter 400 Part II, F.S. and these rules.

ST - N0025 - Resident Property and Personal Affairs

Title Resident Property and Personal Affairs

Rule 400.162, F.S.

Type Rule

Regulation Definition

Interpretive Guideline

400.162 Property and personal affairs of residents.

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

Also see 400.022 Resident Rights

(2) No licensee, owner, administrator, employee, or representative thereof shall act as guardian, trustee, or conservator for any resident of the facility or any of such resident's property unless the person is the resident's spouse or a blood relative within the third degree of consanguinity.

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(3) A licensee shall provide for the safekeeping of personal effects, funds, and other property of the resident in the facility. Whenever necessary for the protection of valuables, or in order to avoid unreasonable responsibility therefor, the licensee may require that such valuables be excluded or removed from the facility and kept at some place not subject to the control of the licensee. At the request of a resident, the facility shall mark the resident's personal property with the resident's name or another type of identification, without defacing the property. Any theft or loss of a resident's personal property shall be documented by the facility. The facility shall develop policies and procedures to minimize the risk of theft or loss of the personal property of residents. A copy of the policy shall be provided to every employee and to each resident at admission. Facility policies must include provisions related to reporting theft or loss of a resident's property to law enforcement and any facility waiver of liability for loss or theft. The facility shall post notice of these policies and procedures, and any revision thereof, in places accessible to residents.

(4) A licensee shall keep complete and accurate records of all funds and other effects and property of its residents received by it for safekeeping.

(5)(a) Any funds or other property belonging to a resident which are received by a licensee shall be held in trust. Funds held in trust shall be kept separate from the funds and property of the facility; shall be deposited in a bank, savings association, trust company, or credit union located in this state and, if possible, located in the same district in which the facility is located; shall not be represented as part of the assets of the facility on a financial statement; and shall be used or otherwise expended only for the account of the resident.

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(b)1. Any licensee which holds resident funds in trust, as provided in paragraph (a), during the period for which a license is requested or issued shall file a surety bond with the agency in an amount equal to twice the average monthly balance in the resident trust fund during the prior year or \$5,000, whichever is greater. The bond shall be executed by the licensee as principal and by a surety company authorized and licensed to do business in the state as surety. The bond shall be conditioned upon the faithful compliance of the licensee with the provisions of this section and shall run to the agency for the benefit of any resident injured by the violation by the licensee of the provisions of this section.

2. A new bond or a proper continuation certificate shall be required on the annual renewal date of each licensee's bond. Such bond or certificate shall be filed with the agency as provided in subparagraph 1.

3. Any surety company which cancels or does not renew the bond of any licensee shall notify the agency, in writing, not less than 30 days in advance of such action, giving the reason for the cancellation or nonrenewal.

(c) As an alternative to posting a surety bond, the licensee may enter into a self-insurance agreement as specified in rules adopted by the agency. Funds contained in the pool shall run to any resident suffering financial loss as a result of the violation by the licensee of the provisions of this section. Such funds shall be awarded to any resident in an amount equal to the amount that the resident can establish, by affidavit or other adequate evidence, was deposited in trust with the licensee and which could not be paid to the resident within 30 days of the resident's request. The agency shall promulgate rules with regard to the establishment, organization, and operation of such self-insurance pools. Such rules shall include, but shall

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not be limited to, requirements for monetary reserves to be maintained by such self-insurers to assure their financial solvency.

(d) If, at any time during the period for which a license is issued, a licensee that has not purchased a surety bond or entered into a self-insurance agreement, as provided in paragraphs (b) and (c), is requested to provide safekeeping for the personal funds of a resident, the licensee shall notify the agency of the request and make application for a surety bond or for participation in a self-insurance agreement within 7 days of the request, exclusive of weekends and holidays. Copies of the application, along with written documentation of related correspondence with an insurance agency or group, shall be maintained by the licensee for review by the agency and the State Nursing Home and Long-Term Care Facility Ombudsman Council.

(e) Moneys or securities received as advance payment for care may at no time exceed the cost of care for a 6-month period.

(f) At least every 3 months, the licensee shall furnish the resident and the guardian, trustee, or conservator, if any, for the resident a complete and verified statement of all funds and other property to which this subsection applies, detailing the amounts and items received, together with their sources and disposition. In any event, the licensee shall furnish such a statement annually and upon the discharge or transfer of a resident. Any governmental agency or private charitable agency contributing funds or other property on account of a resident also shall be entitled to receive such statement annually and upon discharge or transfer and such other report as it may require pursuant to law.

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(6) In the event of the death of a resident, a licensee shall return all refunds and funds held in trust to the resident's personal representative, if one has been appointed at the time the nursing home disburses such funds, and if not, to the resident's spouse or adult next of kin named in a beneficiary designation form provided by the nursing home to the resident. In the event the resident has no spouse or adult next of kin or such person cannot be located, funds due to the resident shall be placed in an interest-bearing account in a bank, savings association, trust company, or credit union located in this state and, if possible, located within the same district in which the facility is located, which funds shall not be represented as part of the assets of the facility on a financial statement, and the licensee shall maintain such account until such time as the trust funds are disbursed pursuant to the provisions of the Florida Probate Code. All other property of a deceased resident being held in trust by the licensee shall be returned to the resident's personal representative, if one has been appointed at the time the nursing home disburses such property, and if not, to the resident's spouse or adult next of kin named in a beneficiary designation form provided by the nursing home to the resident. In the event the resident has no spouse or adult next of kin or such person cannot be located, property being held in trust shall be safeguarded until such time as the property is disbursed pursuant to the provisions of the Florida Probate Code. The trust funds and property of deceased residents shall be kept separate from the funds and the property of the licensee and from the funds and property of the residents of the facility. The nursing home needs to maintain only one account in which the trust funds amounting to less than \$100 of deceased residents are placed. However, it shall be the obligation of the nursing home to maintain adequate records to permit compilation of interest due each individual resident's account. Separate accounts shall be maintained with respect to trust funds of deceased residents

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equal to or in excess of \$100. In the event the trust funds of the deceased resident are not disbursed pursuant to the provisions of the Florida Probate Code within 2 years of the death of the resident, the trust funds shall be deposited in the Resident Protection Trust Fund and expended as provided for in s. 400.063, notwithstanding the provisions of any other law of this state. Any other property of a deceased resident held in trust by a licensee which is not disbursed in accordance with the provisions of the Florida Probate Code shall escheat to the state as provided by law.

ST - N0030 - Resident Notice of Policies

Title Resident Notice of Policies

Rule 59A-4.106(1)(a), F.A.C.

Type Rule

Regulation Definition

59A-4.106(1)(a)

Each resident will receive, at the time of admission and as changes are being made and upon request, in a language the resident or his representative understands:

1. A copy of the resident's bill of rights conforming to the requirements in 400.022, F.S.;
2. A copy of the facility's admission and discharge policies; and
3. Information regarding advance directives.

Interpretive Guideline

Refer to 59A-4.106 (6) and (7).

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ST - N0031 - Resident Contracts

Title Resident Contracts

Rule 400.151, F.S.

Type Rule

Regulation Definition

Interpretive Guideline

400.151 Contracts

(1) The presence of each resident in a facility shall be covered by a contract, executed by the licensee and the resident or his or her designee or legal representative at the time of admission or prior thereto and at the expiration of the term of a previous contract, and modified by the licensee and the resident or his or her designee or legal representative at the time the source of payment for the resident's care changes. Each party to the contract is entitled to a duplicate original thereof, printed in boldfaced type, and the licensee shall keep on file all contracts which it has with residents. The licensee may not destroy or otherwise dispose of any such contract until 5 years after its expiration or such longer period as may be provided in the rules of the agency. Microfilmed records or records reproduced by a similar process of duplication may be kept in lieu of the original records.

(2) Each contract to which this section applies shall contain express provisions specifically setting forth the services and accommodations to be provided by the licensee, the rates or charges therefor, bed reservation and refund policies, and any other matters which the parties deem appropriate. The licensee shall attach to the contract a list of services and supplies available but not covered by the per diem rate of the facility or by Titles XVIII and XIX of the Social Security Act and the standard charge to the resident for each item. The licensee shall provide written notification to each party to the contract

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of any changes in any attachment thereto, no fewer than 14 days in advance of the effective date of those changes. The agency shall specify by rule an alternative method for notification of changes in the cost of supplies. If the resident is a party to the contract, the licensee shall provide him or her with a written and oral notification of the changes.

59A-4.106(1)(b)

Each resident admitted to the facility shall have a contract in accordance with s. 400.151, F.S. which covers:

1. A list of services and supplies, complete with a list of standard charges, available to the resident, but not covered by the facility's per diem or by Title XVIII and Title XIX of the Social Security Act and of bed reservation and refund policies of the facility.

2. When a resident is in a facility offering continuing care, and is transferred from independent living or assisted living to the nursing home section, a new contract need not be executed; an addendum may be attached to describe any additional services, supplies or costs not included in the most recent contract that is in effect.

ST - N0032 - Residents - Communicable Disease

Title Residents - Communicable Disease

Rule 59A-4.106(1)(c), F.A.C.

Type Rule

Regulation Definition

Interpretive Guideline

59A-4.106(1)(c)

No resident who is suffering from a communicable disease shall be admitted or retained unless the medical director or

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attending physician certifies that adequate or appropriate isolation measures are available to control transmission of the disease.

ST - N0033 - Resident Not Retained

Title Resident Not Retained

Rule 59A-4.106(1)(d), F.A.C.

Type Rule

Regulation Definition

Interpretive Guideline

59A-4.106(1)(d)

Residents may not be retained in the facility who require services beyond those for which the facility is licensed or has the functional ability to provide as determined by the Medical Director and Director of Nursing in consultation with the facility administrator.

ST - N0034 - Resident Bedroom Assignment

Title Resident Bedroom Assignment

Rule 59A-4.106(1)(e), F.A.C.

Type Rule

Regulation Definition

Interpretive Guideline

59A-4.106(1)(e)

Residents shall be assigned to a bedroom area and shall not be assigned bedroom space in common areas except in an emergency. Emergencies shall be documented and shall be for a limited, specified period of time.

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ST - N0035 - Bed Placement in Nursing Homes

Title Bed Placement in Nursing Homes

Rule 400.23 (2) (a)

Type Rule

Regulation Definition

400.23 (2) (a)

The Agency, in consultation with the Department of Health and the Department of Elderly Affairs, shall adopt and enforce rules to allow nursing home residents or their representatives to request a change in the placement of the bed in their room, provided that at admission they are presented with a room that meets requirements of the Florida Building Code.

The location of a bed may be changed if the requested placement does not infringe on the resident's roommate or interfere with the resident's care or safety as determined by the care planning team in accordance with facility policies and procedures.

The bed placement may not be used as a restraint.

Each facility shall maintain a log of resident rooms with beds that are not in strict compliance with the Florida Building Code in order for such log to be used by surveyors and nurse monitors during inspections and visits.

Any resident or resident representative who requests that a bed be moved shall sign a statement indicating that they understand the room will not be in compliance with the Florida Building Code, but they would prefer to exercise their right to self-determination. The statement must be retained as part of the resident's care plan.

Interpretive Guideline

At admission was the resident presented with a room that meets the requirements of the building code?

Did the resident/resident representative request the bed be moved? If so, did the resident/representative sign a statement indicating their understanding the room will not be in compliance with the Florida Building Code. Is the statement included in the residents care plan?

Does the bed change infringe on the roommate, if applicable?

Do the facility policies outline their procedures should a resident/resident representative request the bed be moved?

Did the facility notify the Agency 's Long Term Care Unit in Tallahassee?

Is the bed placement used as a restraint? See also N204

For care planning issues see: N0072

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Any facility that offers this option shall notify the Agency of this practice by submitting a letter signed by the nursing home administrator of record and a copy of the facility's policies and procedures.

ST - N0040 - Facility Policies Required

Title Facility Policies Required

Rule 59A-4.106(2)(3), F.A.C.

Type Rule

Regulation Definition

Interpretive Guideline

59A-4.106(2) and (3)

(2) Each nursing home facility shall adopt, implement, and maintain written policies and procedures governing all services provided in the facility.

(3) All policies and procedures shall be reviewed at least annually and revised as needed with input from, at a minimum from the Administrator, Medical Director, and Director of Nursing.

ST - N0041 - Facility Policy Components

Title Facility Policy Components

Rule 59A-4.106(4), F.A.C.

Type Rule

Regulation Definition

Interpretive Guideline

59A-4.106(4)

Each facility shall maintain policies and procedures in the

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following areas:

- (a) Activities;
- (b) Advance directives;
- (c) Consultant services;
- (d) Death of residents in the facility;
- (e) Dental services;
- (f) Staff education, including HIV/AIDS training;
- (g) Diagnostic services;
- (h) Dietary services;
- (i) Disaster preparedness;
- (j) Fire prevention and control;
- (k) Housekeeping;
- (l) Infection control;
- (m) Laundry service;
- (n) Loss of power, water, air conditioning or heating;
- (o) Medical director/consultant services;
- (p) Medical records;
- (q) Mental health;
- (r) Nursing services;
- (s) Pastoral services;
- (t) Pharmacy services;
- (u) Podiatry services;
- (v) Resident care planning;
- (w) Resident identification;
- (x) Resident's rights;
- (y) Safety awareness;
- (z) Social services;
- (aa) Specialized rehabilitative and restorative services;
- (bb) Volunteer services; and
- (cc) The reporting of accidents or unusual incidents involving any resident, staff member, volunteer or visitor. These policies shall include reporting within the facility and to the AHCA.

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ST - N0042 - Resident Grievances and Complaints

Title Resident Grievances and Complaints

Rule 400.1183, F.S.

Type Rule

Regulation Definition

Interpretive Guideline

400.1183

(1) Every nursing home must have a grievance procedure available to its residents and their families. The grievance procedure must include:

- (a) An explanation of how to pursue redress of a grievance.
- (b) The names, job titles, and telephone numbers of the employees responsible for implementing the facility's grievance procedure. The list must include the address and the toll-free telephone numbers of the ombudsman and the agency.
- (c) A simple description of the process through which a resident may, at any time, contact the toll-free telephone hotline of the ombudsman or the agency to report the unresolved grievance.
- (d) A procedure for providing assistance to residents who cannot prepare a written grievance without help.

(2) Each facility shall maintain records of all grievances and shall report annually to the agency the total number of grievances handled, a categorization of the cases underlying the grievances, and the final disposition of the grievances.

(3) Each facility must respond to the grievance within a

Review should identify the facility's actions and procedures that support each resident's right to voice grievances and to assure the facility actively seeks a resolution.

Use interviews to obtain information on the facility's grievance process. Conduct individual resident, family, and group interviews, to assess if residents are aware, how to file a grievance, and if their grievance was responded to and resolved timely. If their grievance was not resolved, did they know what options were available to them (i.e., contact the toll free hotline for the ombudsman and/or AHCA). If the resident needed assistance to prepare a written grievance, was this assistance provided? Also interview direct care staff to determine if they know what to do if a resident wanted to file a grievance, verbally or in writing.

If an issue concerning the grievance process is identified from resident and/or family interviews, then review the facility's grievance policy & procedure. Determine if the facility's policy and procedure for grievances was made available to residents and family members. Interview the employee(s) responsible for implementing the grievance procedure, and review a sample of grievances, in particular, any that are similar to the identified concern.

Determine if the facility made a reasonable attempt to resolve the grievance(s).

Review of grievances is also part of the internal risk management program; see s. 400.147, "Guidance To Surveyors", regarding methods to obtain information relating to the facility's grievance process.

Also see federal regulation 42 CFR 483.10 (f).

Also see N 0188

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reasonable time after its submission.

(4)The agency may investigate any grievance at any time.

(5)The agency may impose an administrative fine, in accordance with s. 400.121, against a nursing home facility for noncompliance with this section.

ST - N0046 - Medical Director Qualifications

Title Medical Director Qualifications

Rule 59A-4.1075(2)(a)(b)(c)

Type Rule

Regulation Definition

Interpretive Guideline

59A-4.1075

(2) (a) The Medical Director must be a physician licensed under Chapter 458 or 459, Florida Statutes. The nursing home administrator may require that the Medical Director be certified or credentialed through a recognized certifying or credentialing organization.

(b) A Medical Director who does not have hospital privileges shall be certified or credentialed through a recognized certifying or credentialing body, such as the Joint Commission on Accreditation of Healthcare Organizations (JCAHO), the American Medical Directors Association, the Healthcare Facilities Accreditation Program of the American Osteopathic Association, the Bureau of Osteopathic Specialists of the American Osteopathic Association, the Florida Medical Directors Association or a health maintenance organization licensed in Florida.

(c) A physician must have his/her principal office within 60 miles of all facilities for which he/she serves as Medical

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Director. Principal office is the office maintained by a physician pursuant to ss. 458.351 or 459.026, Florida Statutes, where the physician delivers the majority of medical services. The physician must specify the address of his/her principal office at the time of becoming Medical Director. The agency may approve a request to waive this requirement for rural facilities that exceed this distance requirement. A rural facility is a facility located in a county with a population density of no greater than 100 persons per square mile, which is at least 30 minutes of travel time, on normally traveled roads under normal traffic conditions, from any other nursing home facility within the same county.

ST - N0048 - Medical Director Responsibilities Requirement

Title Medical Director Responsibilities Requirement

Rule 59A-4.1075(2)-(5), F.S.

Type Rule

Regulation Definition

Interpretive Guideline

59A-4.1075

(2) (d) The facility shall appoint a Medical Director who shall visit the facility at least once a month. The Medical Director shall review all new policies and procedures; review all new incident and new accident reports from the facility to identify clinical risk and safety hazards. The Medical Director shall review the most recent grievance logs for any complaints or concerns related to clinical issues. Each visit must be documented in writing by the Medical Director.

(3) A physician may be Medical Director of a maximum of 10 nursing homes at any one time. The Medical Director, in an emergency where the health of a resident is in jeopardy and the attending physician or covering physician cannot be located, may assume temporary responsibility of the care of

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the resident and provide the care deemed necessary.

(4) The Medical Director appointed by the facility shall meet at least quarterly with the quality assessment and assurance committee of the facility.

(5) The Medical Director appointed by the facility shall participate in the development of the comprehensive care plan for the resident when he/she is also the attending physician of the resident.

ST - N0050 - Medical Director Required

Title Medical Director Required

Rule 400.141(2), F.S.

Type Rule

Regulation Definition

Interpretive Guideline

400.141

Every licensed facility shall comply with all applicable standards and rules of the agency and shall:

(2) Appoint a medical director licensed pursuant to chapter 458 or chapter 459. The agency may establish by rule more specific criteria for the appointment of a medical director.

59A-4.1075

(1) Each facility will have only one physician who is designated as Medical Director.

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ST - N0051 - Physician - Resident Selects

Title Physician - Resident Selects

Rule 59A-4.107(2), F.A.C.

Type Rule

Regulation Definition

Interpretive Guideline

59A-4.107(2)

Also see 400.022(1)(q)

Each resident or legal representative, shall be allowed to select his or her own private physician.

ST - N0052 - Physician Orders

Title Physician Orders

Rule 59A-4.107(3), F.A.C.

Type Rule

Regulation Definition

Interpretive Guideline

59A-4.107(3)

Verbal orders, including telephone orders, shall be immediately recorded, dated, and signed by the person receiving the order. All verbal treatment orders shall be countersigned by the physician or other health care professional on the next visit to the facility.

ST - N0053 - Physician Fax Orders

Title Physician Fax Orders

Rule 59A-4.107(4), F.A.C.

Type Rule

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Interpretive Guideline

59A-4.107(4)

Physician orders may be transmitted by facsimile machine. It is not necessary for a physician to re-sign a facsimile order when he visits a facility.

ST - N0054 - Follow Physician Orders

Title Follow Physician Orders

Rule 59A-4.107(5), F.A.C.

Type Rule

Regulation Definition

Interpretive Guideline

59A-4.107(5)

All physician orders shall be followed as prescribed and if not followed, the reason shall be recorded on the resident's medical record during that shift.

ST - N0055 - Physician Visit Timeframes

Title Physician Visit Timeframes

Rule 59A-4.107(6), F.A.C.

Type Rule

Regulation Definition

Interpretive Guideline

59A-4.107(6)

Also refer to CFR 483.40(c) Frequency of Physician Visits (F387 and F388)

Each resident shall be seen by a physician or another licensed health professional acting within their scope of practice at least once every 30 days for the first 90 days after admission, and at least once every 60 days thereafter. A physician visit is

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considered timely if it occurs not later than 10 days after the date the visit was required. If a physician documents that a resident does not need to be seen on this schedule and there is no other requirement for physician's services that must be met due to Title XVIII or XIX, the resident's physician may document an alternate visitation schedule.

ST - N0056 - Physician Designee

Title Physician Designee

Rule 59A-4.107(7), F.A.C.

Type Rule

Regulation Definition

59A-4.107(7)

If the physician chooses to designate another health care professional to fulfill the physician's component of resident care, they may do so after the required visit. All responsibilities of a physician, except for the position of medical director, may be carried out by other health care professionals acting within their scope of practice.

Interpretive Guideline

Also refer to CFR 483.40(e) Physician Delegation of Tasks in SNF's (F390)

ST - N0057 - Emergency Physician Services

Title Emergency Physician Services

Rule 400.141(3), F.S.

Type Rule

Regulation Definition

400.141

Every licensed facility shall comply with all applicable standards and rules of the agency and shall:

Interpretive Guideline

Also refer to CFR 483.40(d) Availability of Physicians for Emergency Care (F389)

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(3) Have available the regular, consultative, and emergency services of physicians licensed by the state.

59A-4.107(8)

Each facility shall have a list of physicians designated to provide emergency services to residents when the resident's attending physician, or designated alternate is not available.

ST - N0060 - Director of Nursing

Title Director of Nursing

Rule 59A-4.108(1), F.A.C.

Type Rule

Regulation Definition

59A-4.108(1)

The Administrator of each nursing home will designate one full time registered nurse as a Director of Nursing who shall be responsible and accountable for the supervision and administration of the total nursing services program. When a Director of Nursing is delegated institutional responsibilities, a full time qualified registered nurse shall be designated to serve as Assistant Director of Nursing. In a facility with a census of 121 or more residents, an RN must be designated as an Assistant Director of Nursing.

Interpretive Guideline

ST - N0061 - Director of Nursing Limitations

Title Director of Nursing Limitations

Rule 59A-4.108(2), F.A.C.

Type Rule

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Regulation Definition

Interpretive Guideline

59A-4.108(2)

Persons designated as DON or ADON shall serve only one nursing home facility in this capacity, and shall not serve as the administrator of the nursing home facility.

ST - N0062 - Nurse Required Each Shift

Title Nurse Required Each Shift

Rule 59A-4.108(3), F.A.C.

Type Rule

Regulation Definition

Interpretive Guideline

59A-4.108 (3)

The DON shall designate one licensed nurse on each shift to be responsible for the delivery of nursing services during that shift.

ST - N0063 - Minimum Nursing Staff

Title Minimum Nursing Staff

Rule 400.23(3)(a), F.S.

Type Rule

Regulation Definition

Interpretive Guideline

59A-4.108

Modified 1/1/2007

(4) The nursing home facility shall have sufficient nursing staff, on a 24-hour basis to provide nursing and related services to residents in order to maintain the highest practicable physical, mental, and psychosocial well-being of

Minimum staffing requirements for certified nursing assistants and licensed nurses have been increased, effective January 1, 2003 and January 1, 2007.

Certified nursing assistants:

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each resident, as determined by resident assessments and individual plans of care.

400.23(3)(a)1.

The agency shall adopt rules providing for the minimum staffing requirements for nursing homes. These requirements shall include, for each nursing home facility:

a. A minimum certified nursing assistant staffing of 2.6 hours of direct care per resident per day beginning January 1, 2003, increasing to 2.7 hours of direct care per resident per day beginning January 1, 2007. Beginning January 1, 2002 no facility shall staff below one certified nursing assistant per 20 residents, and a minimum licensed nursing staffing of 1.0 hour of direct resident care per resident per day but never below one licensed nurse per 40 residents.

b. Beginning January 1, 2007, a minimum weekly average certified nursing assistant staffing of 2.9 hours of direct care per resident per day. For the purposes of this subparagraph, a week is defined as Sunday through Saturday.

2. Nursing assistants employed under s. 400.211(2) may be included in computing the staffing ratio for certified nursing assistants only if they provide nursing assistance services to residents on a full-time basis.

3. Each nursing home must document compliance with staffing standards as required under this paragraph and post daily the names of staff on duty for the benefit of facility residents and the public. (Use N 0066 for posting requirement).

4. The agency shall recognize the use of licensed nurses for compliance with minimum staffing requirements for certified

January 1, 2003 = 2.6 hours per resident per day
January 1, 2007 = 2.7 hours per resident per day
January 1, 2007 = weekly average 2.9 hours per resident per day (week defined as Sunday-Saturday)

Licensed nurses

January 1, 2002 = 1.0 hour per resident per day

A facility shall not staff below one C.N.A. per 20 residents, and one licensed nurse per 40 residents.

Select the two-week time period preceding the survey. If conducting a complaint survey involving staffing issues, select the two-week time period that was identified in the complaint. Multiply the census on each day by the number of hours required for C.N.A.s and nurses. Compare the required hours with the actual time worked. Request time cards, payroll records, or computer print outs, of actual time worked for the same two-week period.

To determine the 2.9 weekly CNA average divide the total weekly hours by the total weekly census.

Nursing assistant trainees may be employed by a nursing facility for a period of 4 months. The employee must be: (a) enrolled in, or has completed a state-approved nursing assistant program, or; (b) has been positively verified as actively certified and on the registry in another state with no findings of abuse, neglect, or exploitation in that state; or (c) has preliminarily passed the state's certification exam.

The certification requirement must be met within 4 months after initial employment as a nursing assistant in a licensed nursing facility. See s 400.211(2). These nursing assistants may be included in computing the staffing ratio for certified nursing assistants only if they provide nursing assistance services to residents on a full time basis.

Review the personnel records for any nursing assistant trainee to verify date of hire and if employed and providing services to residents on a full-time basis.

If the facility that licensed nurses are used as certified nursing assistants, then:

Ask the administrator or director of nursing for a position description for the staff person showing that staff person is performing the functions of a C.N.A.

Ask the staff person in the position what duties he/she performs during a shift. Verify those duties include functions a C.N.A. normally performs.

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nursing assistants, provided that the facility otherwise meets the minimum staffing requirements for licensed nurses and that the licensed nurses so recognized are performing the duties of a certified nursing assistant. Unless otherwise approved by the agency, licensed nurses counted towards the minimum staffing requirements for certified nursing assistants must exclusively perform the duties of a certified nursing assistant for the entire shift and shall not also be counted towards the minimum staffing requirements for licensed nurses. If the agency approved a facility's request to use a licensed nurse to perform both licensed nursing and certified nursing assistant duties, the facility must allocate the amount of staff time specifically spent on certified nursing assistant duties for the purpose of documenting compliance with minimum staffing requirements for certified and licensed nursing staff. In no event may the hours of a licensed nurse with dual job responsibilities be counted twice.

Ask residents and other staff about the duties performed by the staff person designated as a C.N.A.

Observe staff person functioning as a C.N.A. performing duties normally attributed to certified nursing assistants.

If a licensed nurse is used as a CNA on a particular day that the facility does not meet minimum required CNA hours, a resident assignment for the licensed nurse must be made available for review showing the licensed nurse's duties were strictly (no licensed nursing duties on that shift) CNA duties, in order to be counted toward CNA minimum staffing hours for that day, unless otherwise approved by the agency.

If the nurse is performing both licensed nursing and certified nursing assistant duties, verify they received approval from the agency, and how the hours are allocated. Ensure the hours are not counted twice.

Non-nursing staff who feed cannot be counted towards the minimum staffing standards.

As of January 1, 2002, minimum staffing standards require minimum staff "hours for direct care" per resident as opposed to "staff time" per resident. Although the facility meets the staffing ratio numbers, if based on interview, observation and record review, there is evidence of lack of sufficient staff to maintain the highest practical physical, mental, and psychosocial well-being of each resident, then investigate for evidence of non-compliance with the "hours of direct care" component of the statute.

ST - N0064 - Nursing Staff at All Times

Title Nursing Staff at All Times

Rule 59A-4.108(5), F.A.C.

Type Rule

Regulation Definition

59A-4.108

(5) In multi-story, multi-wing, or multi-station nursing home facilities, there shall be a minimum of one nursing services staff person who is capable of providing direct care of duty at all times on each floor, wing, or station.

Interpretive Guideline

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ST - N0065 - 16 Hour Limit for Staff

Title 16 Hour Limit for Staff

Rule 59A-4.108(6), F.A.C.

Type Rule

Regulation Definition

Interpretive Guideline

59A-4.108(6)

No nursing services staff person be scheduled for more than 16 hours within a 24 hour period, for three consecutive days, except in an emergency. Emergencies shall be documented and shall be for a limited specified period of time.

ST - N0066 - Posting Staff

Title Posting Staff

Rule 400.23(3)

Type Rule

Regulation Definition

Interpretive Guideline

400.23(3)(a)3.

Each nursing home must ... post daily the names of staff on duty for the benefit of facility residents and the public.

Modified 1/1/07

During tour observe for the posting of the daily list of the names of the CNA and Licensed Nurse staff on duty. Verify that the facility posts the names of nursing staff on duty for each shift, in a 24 hour period. It should be posted in an area where it is of benefit to residents and the public.

Also refer to CFR 483.30(e) Nursing Staffing Information (F356)

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ST - N0067 - Dining & Hospitality Attendant

Title Dining & Hospitality Attendant

Rule 400.141(18)

Type Rule

Regulation Definition

Interpretive Guideline

400.141(18)

If the facility implements a dining and hospitality attendant program, ensure that the program is developed and implemented under the supervision of the facility director of nursing. A licensed nurse, licensed speech or occupational therapist, or a registered dietitian must conduct training of dining and hospitality attendants. A person employed by a facility as a dining and hospitality attendant must perform tasks under the direct supervision of a licensed nurse.

400.23(3)(b)

The agency shall adopt rules to allow properly trained staff of a nursing facility, in addition to certified nursing assistants and licensed nurses, to assist residents with eating. The rules shall specify the minimum training requirements and shall specify the physiological conditions or disorders of residents which would necessitate that the eating assistance be provided by nursing personnel of the facility. Nonnursing staff providing eating assistance to residents under the provisions of this subsection shall not count towards compliance with minimum staffing standards.

Review care plans of residents receiving a comprehensive review and sampled residents identified with malnutrition, unintended weight loss, mechanically altered diet, pressure sores/ulcers and hydration concerns who trigger for the Dining and Food Service Investigative Protocol to assess if the facility had determined whether these residents have a physiological condition or disorder that would necessitate that the resident be fed by nursing personnel.

Interview both nursing and non-nursing staff to determine their understanding of the resident's care plan regarding eating/feeding and the extent of their training in feeding and swallowing techniques.

Interview the Administrator, Director of Nursing or Dietary Manager regarding whether the facility has implemented a dining and hospitality program in the facility. When interviewing, determine:

- who developed the program
- how it was implemented in the facility
- who conducted the training of the attendants
- what are the duties of the dining and hospitality attendants
- who supervises the dining and hospitality attendants
- which staff are allowed to feed residents.

Review the facility's policy and procedures for the dining and hospitality program. Check that it reflects the information you received regarding the program during your interview.

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Review the job description of the dining and hospitality attendant to determine what responsibilities they are allowed to perform.

Review the training program for course content, dates training was provided, name and credentials of the trainer, hours of training. Review the personnel files of the dining and hospitality attendants for certificates of attendance.

Observe the functions and duties of the dining and hospitality attendants when conducting your dining observations on sampled residents or conducting your observation of 2 meals during the survey.

Examples of the duties the dining and hospitality attendants may perform include:

- Preparing the dining room for meals (arranging the tables and seating, adjusting the lighting and music, setting the tables, preparing beverages)
- Welcoming residents and guests into the dining room and assisting them with finding their tables.
- Assist residents with moving dining chairs or wheel chairs closer to the table.
- Serving the beverages and meals
- Assisting the resident with the meal by opening and pouring juice/milk cartons, asking resident about adding seasonings to the food, cutting meat if necessary, placing food items and eating utensils in the resident's visual field, adjusting assistive eating devices such as plate guards, non-slip mats and built-up utensils.
- Conversing with residents and responding to requests for additional items or food substitutions.
- Clearing the tables and preparing the dining room for the next meal.
- Delivering meal trays to residents rooms
- Assisting residents in their rooms with tray set-up such as opening containers, pouring beverages, cutting food, adding seasonings and rearranging food items for easier access.
- Picking up meal trays after meal service is completed

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Observe that the dining and hospitality attendant is under the "direct supervision" of a licensed nurse. "Direct supervision" means the licensed nurse is physically in the dining room during the meal or on the unit with the attendants during passing and set-up of meal trays to provide supervision, assistance and monitor the activities of the dining attendants.

Interview several dining and hospitality attendants to determine their knowledge of their job responsibilities and assigned duties.

Observe which staff are feeding residents. Interview staff to determine their understanding of the resident's care plan regarding eating/feeding and the extent of their training in feeding and swallowing techniques.

In a certified nursing facility, HCFA defines assistance with eating, such as feeding a resident, as a nursing related service. The only staff who can provide nursing and nursing related services are: nurses aides, licensed health professionals, registered dietitians or licensed dietitian/nutritionists and volunteers.

Licensed health professionals are defined at 42CFR 483.75(e)(1) as a physician; physician assistant; nurse practitioner; physical therapist; speech therapist; occupational therapist; physical or occupational therapy assistant; registered professional nurse; licensed practical nurse or licensed or certified social worker.

Nurse's aides are defined as individuals providing nursing or nursing related services to residents in a nursing facility. The nurses' aide must either be in or has completed the Nurse Aide Training and Competency Evaluation Program.

Volunteers are defined as someone who provides nursing or nursing related services without pay including family members of the residents, and student nurses under the direct supervision of a registered nurse who are in the facility as part of their clinical rotation for their nursing education program. Interview volunteers who are feeding to check their knowledge of the resident's care plan regarding eating skills, special feeding techniques, swallowing strategies or use of adaptive eating equipment.

Unless change in federal policy:

In a federally certified nursing facility, HCFA defines assistance with eating, such as feeding a resident, as a nursing related service. The only staff who can provide nursing and nursing related services are: nurses aides, licensed health professionals, registered dietitians or licensed dietitian/nutritionists and volunteers.

Licensed health professionals are defined at 42CFR 483.75(e)(1) as a physician; physician assistant; nurse

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practitioner; physical therapist; speech therapist; occupational therapist; physical or occupational therapy assistant; registered professional nurse; licensed practical nurse or licensed or certified social worker.

Nurse's aides are defined as individuals providing nursing or nursing related services to residents in a nursing facility. The nurse's aide must either be in or has completed the Nurses Aide Training and Competency Evaluation Program.

Volunteers are defined as someone who provides nursing or nursing related services without pay including family members of the residents, and student nurses under the direct supervision of a registered nurse who are in the facility as part of their clinical rotation for their nursing education program. Interview volunteers who are feeding to check their knowledge of the resident's care plan regarding eating skills, special feeding techniques, swallowing strategies or use of adaptive eating equipment.

In a certified nursing facility, check that dining and hospitality attendants, activity staff, business office staff, department managers who do not meet the criteria of a licensed health professional, etc. are not feeding residents.

In a licensure only nursing facility or a licensure only part of a certified nursing facility, observe the staff who are feeding residents. Question the Administrator or Director of Nursing regarding how these staff were trained to feed residents, who conducted the training and the content of the training.

ST - N0068 - LPN Supervision

Title LPN Supervision

Rule 400.23(3)(c), F.S.

Type Rule

Regulation Definition

400.23(3)

(c) Licensed practical nurses licensed under chapter 464 who are providing nursing services in nursing home facilities under this part may supervise the activities of other licensed practical nurses, certified nursing assistants, and other unlicensed personnel providing services in such facilities in accordance with rules adopted by the Board of Nursing.

Interpretive Guideline

Review staffing assignments to verify licensed practical nurses are supervising within rules adopted by the Board of Nursing, ie. license practical nurses cannot supervise registered nurses.

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ST - N0069 - Moratorium for Staff Shortages

Title Moratorium for Staff Shortages

Rule 400.141(15)(d), F.S.

Type Rule

Regulation Definition

400.141(15)

(d) A nursing facility that has failed to comply with state minimum-staffing requirements for 2 consecutive days is prohibited from accepting new admissions until the facility has achieved the minimum-staffing requirements for a period of 6 consecutive days. For the purposes of this paragraph, any person who was a resident of the facility and was absent from the facility for the purpose of receiving medical care at a separate location or was on a leave of absence is not considered a new admission. Failure to impose such an admissions moratorium constitutes a Class II deficiency.

(e) A nursing facility which does not have a conditional license may be cited for failure to comply with the standards in s. 400.23(3)(a)1.a. only if it has failed to meet those standards on 2 consecutive days or it has failed to meet at least 97 percent of those standards on any one day.

(f) A facility which has a conditional license must be in compliance with the standards in s. 400.23(3)(a) at all times.

Interpretive Guideline

Modified 1/1/07

The intent of this statute is for the facility to self-impose a moratorium on new admissions if they fall below the minimum staffing requirements for 2 consecutive days.

Obtain and review staffing hours for nurses and certified nursing assistants for a complete 2-week pay period prior to the start of the survey.

NOTE: Refer to 400.23(3)(a), F.S., if a licensed nurse is used as a CNA on a particular day that the facility does not meet minimum required CNA hours, a resident assignment for the licensed nurse MUST be made available for review showing the licensed nurse's duties were strictly (no licensed nursing duties on that shift) CNA duties unless otherwise approved by the agency, in order to be counted toward CNA minimum staffing hours for that day.

If it is noted the facility did not have sufficient staffing for 2 consecutive days obtain the admission log to verify if the facility self imposed a moratorium for 6 consecutive days. If they did admit, cite as a Class II deficiency. In addition, notify the Field Office Manager of the facilities failure to self impose the moratorium and citing of the Class II deficiency.

Interview the administrator and the admission director to inquire if the facility self-imposed a moratorium on new admissions due to insufficient staffing.

NOTE: Any person who was a resident of the facility and was absent from the facility for the purposes of receiving medical care at a separate location or was on a leave of absence is NOT considered a new admission.

Also refer to N 0063.

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ST - N0071 - Components of Care Plan

Title Components of Care Plan

Rule 59A-4.109(1), F.A.C.

Type Rule

Regulation Definition

59A-4.109(1)

Each resident admitted to the nursing home facility shall have a plan of care. The plan of care shall consist of:

- (a) Physician's orders, diagnosis medical history, physical exam and rehabilitative or restorative potential.
- (b) A preliminary nursing evaluation with physician's orders for immediate care, completed on admission.
- (c) A complete, comprehensive, accurate and reproducible assessment of each resident's functional capacity which is standardized in the facility, and is completed within 14 days of the resident's admission to the facility and every twelve months, thereafter. The assessment shall be:
 - 1. Reviewed no less than once every 3 months,
 - 2. Reviewed promptly after a significant change in the resident's physical or mental condition,
 - 3. Revised as appropriate to assure the continued accuracy of the assessment.

Interpretive Guideline

Determine if the facility developed the care plan interventions/approaches/treatments with specific type and frequency of services to meet the residents' needs. Treatment as ordered and medications as ordered, is not an acceptable approach.

Does the care plan address all the resident needs as identified in the comprehensive assessment and physician orders?

Are objectives measurable and realistic?

Are timetables identified to meet the needs of the resident?

Are care plans consistently evaluated and revised based on response, outcomes and the needs of the resident? If the interventions/approaches/treatments are not working, or if there is a decline in the resident's condition, when and how does the facility make changes to the interventions/approaches/treatments, and the plan of care?

If the resident refuses care/services did the facility council the resident about alternatives and consequences, if appropriate?

Did the facility provide adequate information so the resident was able to make an informed decision regarding treatment?

Use N0071 for components of the care plan.
Also see N0072 Comprehensive Care Plans.

See Federal regulations:

If the facility has not developed a care plan that includes a comprehensive assessment of the needs of the individual resident and include the type and frequency of services required to provide the necessary care for the resident, see F279.

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If an interdisciplinary team did not develop the care plan, see F280.

ST - N0072 - Comprehensive Care Plans

Title Comprehensive Care Plans

Rule 59A-4.109(2), F.A.C.

Type Rule

Regulation Definition

Interpretive Guideline

59A-4.109(2)

See Guidelines for N0071

The facility is responsible to develop a comprehensive care plan for each resident that includes measurable objectives and timetables to meet a resident's medical, nursing, mental and psychosocial needs that are identified in the comprehensive assessment. The care plan must describe the services that are to be furnished to attain or maintain the resident's highest practicable physical, mental and social well-being. The care plan must be completed within 7 days after completion of the resident assessment.

400.021

(17) "Resident care plan" means a written plan developed, maintained, and reviewed not less than quarterly by a registered nurse, with participation from other facility staff and the resident or his or her designee or legal representative, which includes a comprehensive assessment of the needs of an individual resident, the type and frequency of services required to provide the necessary care for the resident to attain or maintain the highest practicable physical, mental, and psychosocial well-being, a listing of services provided within or outside the facility to meet those needs, and an explanation of service goals.

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ST - N0073 - Care Plan - Resident Involvement & Signature

Title Care Plan - Resident Involvement & Signature

Rule 59A-4.109(3), F.A.C.

Type Rule

Regulation Definition

59A-104.109(3)

At the resident's option, every effort shall be made to include the resident and family or responsible party, including private duty nurse or nursing assistant, in the development, implementation, maintenance and evaluation of the resident plan of care.

400.021

(17) The resident care plan must be signed by ...the resident, the resident's designee, or the resident's legal representative.

Interpretive Guideline

Does the facility have a policy indicating that the care plan must be signed by the Resident, Resident's family or legal representative on a quarterly basis?

Also see N0199

See federal regulation F280, 42 CFR 483.20(k)

ST - N0074 - Staff Knowledge/ Access to Care Plan

Title Staff Knowledge/ Access to Care Plan

Rule 59A-4.109(4), F.A.C.

Type Rule

Regulation Definition

59A-4.109(4)

All staff personnel who provide care, and at the resident's option, private duty nurses or non employees of the facility shall be knowledgeable of, and have access to, the resident's plan of care.

Interpretive Guideline

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ST - N0075 - Care Plan / Adv Dir Sent with Resident

Title Care Plan / Adv Dir Sent with Resident

Rule 59A-4.109(5), F.A.C.

Type Rule

Regulation Definition

Interpretive Guideline

59A-4.109(5)

A summary of the resident's plan of care and a copy of any advanced directives shall accompany each resident discharged or transferred to another health care facility, licensed under Chapter 400, Part II, F.S., or shall be forwarded to the receiving facility as soon as possible consistent with good medical practice.

ST - N0076 - DON Signs Care Plans

Title DON Signs Care Plans

Rule 400.021(17), F.S.

Type Rule

Regulation Definition

Interpretive Guideline

400.021

(17) The resident care plan must be signed by the director of nursing

Has the director of nursing (DON) signed the care plans?

The care plans must be complete and signed by the DON within 7 days of completion of the comprehensive assessment. That signature indicates the DON has knowledge of the care plans and that the plans for care are appropriate for the resident's needs.

Does the facility have a policy indicating that the care plan must be signed by the DON on a quarterly basis?

Is the facility following its own policy?

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Signatures by DON delegates - Delegation of the DON signature to the Assistant DON in accordance with 59A-4.108(1) or to another nurse through formal delegation of institutional responsibilities demonstrates compliance. Such delegation should be documented and remain on file.

See also federal regulation F280, 42 CFR 483.20 (k)

(Use N0073 for resident signature)

ST - N0080 - Dietary Serv - Full Time Supervisor

Title Dietary Serv - Full Time Supervisor

Rule 59A-4.110(1), F.A.C.

Type Rule

Regulation Definition

59A-4.110(1)

Also see N0407

The Administrator must designate one full-time person as a Dietary Services Supervisor. In a facility with a census of 61 or more residents, the duties of the Dietary Services supervisor shall not include food preparation or service on a regular basis.

Interpretive Guideline

ST - N0081 - Dietary Serv - Qualified Dietitian

Title Dietary Serv - Qualified Dietitian

Rule 59A-4.110(2), F.A.C.

Type Rule

Regulation Definition

59A-4.110(2)

Also see N0407

The Dietary Services Supervisor shall either be a qualified dietitian or the facility shall obtain consultation from a

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qualified dietitian. A qualified dietitian is one who:

- (a) Is a registered dietitian as defined by the Commission on Dietetic Registration, March 1, 1994, which is incorporated by reference, the credentialing agency for the American Dietetic Association and is currently registered with the American Dietetic Association; or
- (b) Has a baccalaureate degree with major studies in food and nutrition, dietetics, or food service management, as defined by the Commission on Dietetic Registration of the American Dietetic Association, March 1, 1994, which is incorporated by reference, has one year of supervisory experience in the dietetic service of a health care facility, and participates annually in continuing dietetic education.

ST - N0082 - Dietary Serv - Supervisor Qualifications

Title Dietary Serv - Supervisor Qualifications

Rule 59A-4.110(3), F.A.C.

Type Rule

Regulation Definition

59A-4.110(3)

Also see N0407

A Dietary Services Supervisor shall be a person who:

- (a) Is a qualified dietitian as defined in section 59A-4.110(2)
- (a)(b), F.A.C.; or
- (b) Has successfully completed an associate degree program which meets the education standard established by the American Dietetic Association; or
- (c) Has successfully completed a Dietetic Assistant correspondence or class room training program, approved by the American Dietetic Association; or
- (d) Has successfully completed a course offered by an

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accredited college or university that provided 90 or more hours of correspondence, or classroom instruction in food service supervision, and has prior work experience as a Dietary Supervisor in a health care institution with consultation from a qualified dietitian; or

(e) Has training and experience in food service supervision and management in the military service equivalent in content to the program in subparagraphs (3)(b), (c) or (d); or

(f) Is a certified dietary manager who has successfully completed the Dietary Manager's Course and is certified through the Certifying Board for Dietary Managers and is maintaining their certification with continuing clock hours at 45 CEU's per three year period.

ST - N0083 - Food Supply - One Week

Title Food Supply - One Week

Rule 59A-4.110(4), F.A.C.

Type Rule

Regulation Definition

59A-4.110(4)

Also see N0407

A one-week supply of a variety of non-perishable food and supplies, that represents a good diet, shall be maintained by the facility.

Interpretive Guideline

ST - N0090 - Pharmacy Policies and Procedures

Title Pharmacy Policies and Procedures

Rule 59A-4.112(1), F.A.C.

Type Rule

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Regulation Definition

Interpretive Guideline

59A-4.112(1)

The facility shall adopt procedures that assure the accurate acquiring, receiving, dispensing, and administering of all drugs and biologicals, to meet the needs of each resident.

ST - N0091 - Consultant Pharmacist

Title Consultant Pharmacist

Rule 59A-4.112(2), F.A.C.

Type Rule

Regulation Definition

Interpretive Guideline

59A-4.112(2)

The facility shall employ a consultant pharmacist that is licensed by the Department of Business and Professional Regulation and certified as a consultant pharmacist by the Board of Pharmacy in accordance with Rule 61F10-26.300, F.A.C.

ST - N0092 - Controlled Drugs - Records

Title Controlled Drugs - Records

Rule 59A-4.112(3), F.A.C.

Type Rule

Regulation Definition

Interpretive Guideline

59A-4.112(3)

The consultant pharmacist shall establish a system to

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accurately record the receipt and disposition of all controlled drugs in sufficient detail to enable an accurate reconciliation.

ST - N0093 - Controlled Drug - Accounting

Title Controlled Drug - Accounting

Rule 59A-4.112(4), F.A.C.

Type Rule

Regulation Definition

Interpretive Guideline

59A-4.112(4)

The pharmacist shall determine that drug records are in order and that an account of all controlled drugs is maintained and periodically reconciled.

ST - N0094 - Drug Labeling

Title Drug Labeling

Rule 59A-4.112(5), F.A.C.

Type Rule

Regulation Definition

Interpretive Guideline

59A-4.112(5)

Drugs and biologicals used in the facility shall be labeled in accordance with currently accepted professional principles Chapter 499, F.S. and Chapter 61F10, F.A.C.

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ST - N0095 - Drug Storage

Title Drug Storage

Rule 59A-4.112(6), F.A.C.

Type Rule

Regulation Definition

Interpretive Guideline

59A-4.112(6)

Drugs and non-prescription medications requiring refrigeration shall be stored in a refrigerator. When stored in a general-use refrigerator, they shall be stored in a separate, covered, waterproof, and labeled receptacle.

ST - N0096 - Drug Disposal

Title Drug Disposal

Rule 59A-4.112(7), F.A.C.

Type Rule

Regulation Definition

Interpretive Guideline

59A-4.112(7)

All controlled substances shall be disposed of in accordance with state and federal laws. All non-controlled substances may be destroyed in accordance with the facility's policies and procedures. Records of the disposition of all substances shall be maintained in sufficient detail to enable an accurate reconciliation.

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ST - N0097 - Returning Drugs

Title Returning Drugs

Rule 59A-4.112(8), F.A.C.

Type Rule

Regulation Definition

Interpretive Guideline

59A-4.112(8)

Non-controlled substances, in unit dose containers, may be returned to the dispensing pharmacy.

ST - N0098 - Resident Discharged with Drugs

Title Resident Discharged with Drugs

Rule 59A-4.112(9), F.A.C.

Type Rule

Regulation Definition

Interpretive Guideline

59A-4.112(9)

If ordered by the resident's physician, the resident may, upon discharge, take all current prescription drugs with him. An inventory of the drugs released shall be completed, shall be dated and signed by both the person releasing the drugs and the person receiving the drugs, and shall be placed in the resident's record.

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ST - N0099 - Emergency Medication Kit

Title Emergency Medication Kit

Rule 59A-4.112(10), F.A.C.

Type Rule

Regulation Definition

Interpretive Guideline

59A-4.112(10)

The facility shall maintain an Emergency Medication Kit, the contents of which shall be determined in consultation with the Medical Director, Director of Nursing and Pharmacist, and it shall be in accordance with facility policies and procedures. The kit shall be readily available and shall be kept sealed. All items in the kit shall be properly labeled. The facility shall maintain an accurate log receipt and disposition of each item in the Emergency Medication Kit. An inventory of the contents of the Emergency Medication Kit shall be attached to the outside of the kit. If the seal is broken, the kit must be resealed the next business day after use.

400.142

(2) The agency shall adopt such rules as it may deem appropriate to the effective implementation of this act, including, but not limited to, rules which:

- (a) Define the term "emergency medication kit."
- (b) Describe the medicinal drugs eligible to be placed in emergency medication kits.
- (c) Establish requirements for the storing of medicinal drugs in emergency medication kits and the maintenance of records with respect thereto.
- (d) Establish requirements for the administration of medicinal drugs to residents under emergency conditions from

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emergency medication kits.

ST - N0100 - Medical Records Staff

Title Medical Records Staff

Rule 59A-4.118(1), F.A.C.

Type Rule

Regulation Definition

Interpretive Guideline

59A-4.118

(1) The facility shall designate a full-time employee as being responsible and accountable for the facility's medical records. If this employee is not a qualified Medical Record Practitioner, then the facility shall have the services of a qualified Medical Record Practitioner on a consultant basis. A qualified Medical Record Practitioner is one who is eligible for a certification as a Registered Record Administrator or an Accredited Record Technician by the American Health Information Management Association or a graduate of a School of Medical Record Science that is accredited jointly by the Council on Medical Education of the American Medical Association and the American Health Information Management Association.

ST - N0101 - Resident Medical Records

Title Resident Medical Records

Rule 400.141(10), F.S.

Type Rule

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Regulation Definition

400.141

(10) Keep full records of resident admissions and discharges; medical and general health status, including medical records, personal and social history, and identity and address of next of kin or other persons who may have responsibility for the affairs of the residents; and individual resident care plans including, but not limited to, prescribed services, service frequency and duration, and service goals. The records shall be open to inspection by the agency.

59A-4.118

(2) Each medical record shall contain sufficient information to clearly identify the resident, his diagnosis and treatment, and results.

Interpretive Guideline

ST - N0102 - Medical Records - Copies

Title Medical Records - Copies

Rule 400.145, F.S.

Type Rule

Regulation Definition

400.145

(1) Unless expressly prohibited by a legally competent resident, any nursing home licensed pursuant to this part shall furnish to the spouse, guardian, surrogate, proxy, or attorney in fact, as provided in chapters 744 and 765, of a current resident, within 7 working days after receipt of a written request, or of a former resident, within 10 working days after receipt of a written request, a copy of that resident's records

Interpretive Guideline

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which are in the possession of the facility. Such records shall include medical and psychiatric records and any records concerning the care and treatment of the resident performed by the facility, except progress notes and consultation report sections of a psychiatric nature. Copies of such records shall not be considered part of a deceased resident's estate and may be made available prior to the administration of an estate, upon request, to the spouse, guardian, surrogate, proxy, or attorney in fact, as provided in chapters 744 and 765. A facility may charge a reasonable fee for the copying of resident records. Such fee shall not exceed \$1 per page for the first 25 pages and 25 cents per page for each page in excess of 25 pages. The facility shall further allow any such spouse, guardian, surrogate, proxy, or attorney in fact, as provided in chapters 744 and 765, to examine the original records in its possession, or microfilms or other suitable reproductions of the records, upon such reasonable terms as shall be imposed, to help assure that the records are not damaged, destroyed, or altered.

(2) No person shall be allowed to obtain copies of residents' records pursuant to this section more often than once per month, except that physician's reports in the residents' records may be obtained as often as necessary to effectively monitor the residents' condition.

ST - N0103 - Retention of Medical Records

Title Retention of Medical Records

Rule 59A-4.118(3), F.A.C.

Type Rule

Regulation Definition

Interpretive Guideline

59A-4.118(3)

Medical records shall be retained for a period of 5 years from

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the date of discharge. In the case of a minor, the record shall be retained for 3 years after a resident reaches legal age under state law.

ST - N0110 - Physical Environment - Safe, Clean, Homelike

Title Physical Environment - Safe, Clean, Homelike

Rule 400.141(8), F.S.

Type Rule

Regulation Definition

Interpretive Guideline

400.141

(8) Maintain the facility premises and equipment and conduct its operations in a safe and sanitary manner.

59A-4.122

(1) The facility shall provide a safe, clean, comfortable, and homelike environment, which allows the resident to use his or her personal belongings to the extent possible.

ST - N0111 - Physical Environment - Specifics

Title Physical Environment - Specifics

Rule 59A-4.122(2), F.A.C.

Type Rule

Regulation Definition

Interpretive Guideline

59A-4.122

(2) The facility shall provide:

(a) housekeeping and maintenance services necessary to

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maintain a sanitary, orderly, and comfortable interior;

- (b) clean bed and bath linens that are in good condition;
- (c) private closet space for each resident;
- (d) furniture, such as a bed-side cabinet, drawer space;
- (e) adequate and comfortable lighting levels in all areas;
- (f) comfortable and safe temperature levels; and
- (g) the maintenance of comfortable sound levels. Individual radios, TVs and other such transmitters belonging to the resident will be tuned to stations of the resident's choice.

ST - N0130 - Disaster Preparedness Plan

Title Disaster Preparedness Plan

Rule 59A-4.126(1), F.A.C.

Type Rule

Regulation Definition

Interpretive Guideline

59A-4.126

(1) Each nursing home facility shall have a written plan with procedures to be followed in the event of an internal or externally caused disaster. The initiation, development, and maintenance of this plan shall be the responsibility of the facility administrator, and shall be accomplished in consultation with the Department of Community Affairs, County Emergency Management Agency.

ST - N0131 - Disaster Plan Components

Title Disaster Plan Components

Rule 59A-4.126(2), F.A.C.

Type Rule

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Regulation Definition

59A-4.126

(2) The plan shall include, at a minimum the following:

- (a) Criteria, as shown, in 400.23(2)(g), Florida Statutes; and
- (b) The Emergency Management Planning Criteria for Nursing Home Facilities, AHCA 3110-6006, March, 1994, which is incorporated herein by reference and available from the Agency for Health Care Administration.

400.23

(2) Pursuant to the intention of the Legislature, the agency, in consultation with the Department of Health and the Department of Elderly Affairs, shall adopt and enforce rules to implement this part, which shall include reasonable and fair criteria in relation to:

(g) The preparation and annual update of a comprehensive emergency management plan. The agency shall adopt rules establishing minimum criteria for the plan after consultation with the Department of Community Affairs. At a minimum, the rules must provide for plan components that address emergency evacuation transportation; adequate sheltering arrangements; postdisaster activities, including emergency power, food, and water; postdisaster transportation; supplies; staffing; emergency equipment; individual identification of residents and transfer of records; and responding to family inquiries. The comprehensive emergency management plan is subject to review and approval by the local emergency management agency. During its review, the local emergency management agency shall ensure that the following agencies, at a minimum, are given the opportunity to review the plan: the Department of Elderly Affairs, the Department of Health,

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the Agency for Health Care Administration, and the Department of Community Affairs. Also, appropriate volunteer organizations must be given the opportunity to review the plan. The local emergency management agency shall complete its review within 60 days and either approve the plan or advise the facility of necessary revisions.

ST - N0150 - Staff Education Plan

Title Staff Education Plan

Rule 59A-4.106(5)(a), F.A.C.

Type Rule

Regulation Definition

59A-4.106(5)

(a) Each nursing home facility shall develop, implement, and maintain a written staff education plan which ensures a coordinated program for staff education for all facility employees. The staff education plan shall be reviewed at least annually by the quality assurance committee and revised as needed.

Interpretive Guideline

Also see N0603 - CNA Inservice and Evaluation 400.211(4)

ST - N0151 - Staff Education Plan - Preservice/ Inservice

Title Staff Education Plan - Preservice/ Inservice

Rule 59A-4.106(5)(b), F.A.C.

Type Rule

Regulation Definition

59A-4.106(5)

(b) The staff education plan shall include both pre-service and in-service programs.

Interpretive Guideline

Also see N0603 - CNA Inservice and Evaluation 400.211(4)

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ST - N0152 - Staff Education - Annual Requirements

Title Staff Education - Annual Requirements

Rule 59A-4.106(5)(c), F.A.C.

Type Rule

Regulation Definition

Interpretive Guideline

59A-4.106(5)

Also see N0603 - CNA Inservice and Evaluation 400.211(4)

(c) The staff education plan shall ensure that education is conducted annually for all facility employees, at a minimum, in the following areas:

1. Prevention and control of infection;
2. Fire prevention, life safety, and disaster preparedness;
3. Accident prevention and safety awareness programs;
4. Resident's rights;
5. Federal law, 42 CFR 483, Requirements for Long Term Care Facilities, September 26, 1991, which is incorporated by reference, and state rules and regulations, Chapter 400, Part II, F.S., and this rule;
6. The Florida "Right to Know," Chapter 442, F.S.

ST - N0153 - Staff Education - HIV/ AIDS

Title Staff Education - HIV/ AIDS

Rule 59A-4.106(5)(d), F.A.C.

Type Rule

Regulation Definition

Interpretive Guideline

59A-4.106(5)

(d) The staff education plan shall ensure that all non licensed

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employees of the nursing home complete an initial educational course on HIV/AIDS. If the employee does not have a certificate of completion at the time they are hired, they must have two hours within six months of employment. All employees shall have a minimum of one hour biennially.

ST - N0156 - Bribes/ Kickbacks Prohibited

Title Bribes/ Kickbacks Prohibited

Rule 400.17, F.S.

Type Rule

Regulation Definition

Interpretive Guideline

400.17 Bribes, kickbacks, certain solicitations prohibited.

(1) As used in this section, the term:

- (a) "Bribe" means any consideration corruptly given, received, promised, solicited, or offered to any individual with intent or purpose to influence the performance of any act or omission.
- (b) "Kickback" means that part of the payment for items or services which is returned to the payor by the provider of such items or services with the intent or purpose to induce the payor to purchase the items or services from the provider.

(2) Whoever furnishes items or services directly or indirectly to a nursing home resident and solicits, offers, or receives any:

- (a) Kickback or bribe in connection with the furnishing of such items or services or the making or receipt of such payment; or
- (b) Return of part of an amount given in payment for referring any such individual to another person for the furnishing of such items or services; is guilty of a misdemeanor of the first

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degree, punishable as provided in s. 775.082 or by fine not exceeding \$5,000, or both.

(3) No person shall, in connection with the solicitation of contributions to nursing homes, willfully misrepresent or mislead anyone, by any manner, means, practice, or device whatsoever, to believe that the receipts of such solicitation will be used for charitable purposes, if such is not the fact.

(4) Solicitation of contributions of any kind in a threatening, coercive, or unduly forceful manner by or on behalf of a nursing home by any agent, employee, owner, or representative of a nursing home shall be grounds for denial, suspension, or revocation of the license for any nursing home on behalf of which such contributions were solicited.

(5) The admission, maintenance, or treatment of a nursing home resident whose care is supported in whole or in part by state funds may not be made conditional upon the receipt of any manner of contribution or donation from any person. However, this may not be construed to prohibit the offer or receipt of contributions or donations to a nursing home which are not related to the care of a specific resident. Contributions solicited or received in violation of this subsection shall be grounds for denial, suspension, or revocation of a license for any nursing home on behalf of which such contributions were solicited.

ST - N0158 - Rebates Prohibited/ Penalties

Title Rebates Prohibited/ Penalties

Rule 400.176

Type Rule

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Regulation Definition

400.176 Rebates prohibited; penalties.

(1) It is unlawful for any person to pay or receive any commission, bonus, kickback, or rebate or engage in any split-fee arrangement in any form whatsoever with any physician, surgeon, organization, agency, or person, either directly or indirectly, for residents referred to a nursing home licensed under this part.

(2) The agency shall adopt rules which assess administrative penalties for acts prohibited by subsection (1). In the case of an entity licensed by the agency, such penalties may include any disciplinary action available to the agency under the appropriate licensing laws. In the case of an entity not licensed by the agency, such penalties may include:

- (a) A fine not to exceed \$5,000; and
- (b) If applicable, a recommendation by the agency to the appropriate licensing board that disciplinary action be taken.

Interpretive Guideline

ST - N0159 - Alzheimer's Disclosure

Title Alzheimer's Disclosure

Rule 400.175, F.S.

Type Rule

Regulation Definition

400.175 Patients with Alzheimer's disease or other related disorders; certain disclosures.

A facility licensed under this part which claims that it provides special care for persons who have Alzheimer's disease or other related disorders must disclose in its advertisements or in a separate document those services that distinguish the care as being especially applicable to, or suitable for, such persons.

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The facility must give a copy of all such advertisements or a copy of the document to each person who requests information about programs and services for persons with Alzheimer's disease or other related disorders offered by the facility and must maintain a copy of all such advertisements and documents in its records. The agency shall examine all such advertisements and documents in the facility's records as part of the license renewal procedure.

ST - N0160 - Alzheimer's Information

Title Alzheimer's Information

Rule 400.1755(1), F.S.

Type Rule

Regulation Definition

400.1755(1)

As a condition of licensure, facilities licensed under this part must provide to each of their employees, upon beginning employment, basic written information about interacting with persons with Alzheimer's disease or a related disorder.

Interpretive Guideline

Modified 3/19/07

If quality of care deficient practices have been identified review, as appropriate, training received by staff in that corresponding subject area.

If quality of care practices have been identified during the survey process related to the care and services of residents with Alzheimer's disease request the facility provide the team with a copy of the basic written information that is given to the new employee about interacting with persons with Alzheimer's disease or other related disorders. NOTE: Related disorders include but are not limited to, other Dementia types, Organic Brain Syndrome, Closed Head Injury, Mental Illness, and Delirium.

Inquire how the facility maintains proof of written information provided to all employees and new employees at the beginning of employment.

All employees are required to receive the written information, in a language they understand, about interacting with person with Alzheimer's disease or other related disorders. This written information must be provided to new employees at the beginning of employment. Beginning of employment is interpreted as within three (3) days of the employees start date in the facility. Verify that the employee received the written information within the three (3) day timeframe.

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ST - N0163 - Alzheimer's Training

Title Alzheimer's Training

Rule 400.1755, F.S.

Type Rule

Regulation Definition

400.1755

(2) All employees who are expected to, or whose responsibilities require them to, have direct contact with residents with Alzheimer's disease or a related disorder must, in addition to being provided the information required in subsection (1), also have an initial training of at least 1 hour completed in the first 3 months after beginning employment. This training must include, but is not limited to, an overview of dementias and must provide basic skills in communicating with persons with dementia.

(3) An individual who provides direct care shall be considered a direct caregiver and must complete the required initial training and an additional 3 hours of training within 9 months after beginning employment. This training shall include, but is not limited to, managing problem behaviors, promoting the resident's independence in activities of daily living, and skills in working with families and caregivers.

(a) The required 4 hours of training for certified nursing assistants are part of the total hours of training required annually.

(b) For a health care practitioner as defined in s. 456.001, continuing-education hours taken as required by that practitioner's licensing board shall be counted toward this total of 4 hours.

Interpretive Guideline

Modified 3/19/07

If quality of care deficient practices have been identified review, as appropriate, training received by staff in that corresponding subject area.

All staff must comply with this training requirement. If quality of care practices have been identified related to care and services of Alzheimers disease inquire how the facility maintains proof of employee training. All Direct Contact employees hired are required to have completed one (1) hour of training with in the first three (3) months of employment. The employee must have a certificate of completion of training that includes the name of the training provider, the topic(s) covered, and the date and signature of the training provider. The training provider must be approved by the Department of Elderly Affairs. The content of the one (1) hour training must include an overview of dementias and provide basic skills in communicating with persons with dementia. Direct Contact is defined as person to person contact whether the contact be physical, verbal, or within the resident's surroundings. Staff meeting this definition would include, but not be limited to: nursing staff, dietary staff, activity staff, social service staff, housekeeping staff, and maintenance staff.

All staff hired who provide direct care are required to have completed three (3) hours of additional training with in nine (9) months of employment (a total of four (4) hours of training is required for direct care staff, one (1) hour from the initial training for direct contact staff and three (3) hours from the direct care staff training). The employee must have a certificate of completion of training that includes the name of the training provider, the topic(s) covered, and the date and signature of the training provider. The training provider must be approved by the Department of Elderly Affairs. The content of the three (3) hour training must include, managing problem behaviors; promoting the resident's behaviors independence in ADLs; and skills in working with families and care givers.

NOTE: For licensed health care professionals, the continuing education requirements required by the licensing board are accepted in lieu of the four (4) hours of Alzheimer's disease or related disorders training required in this section.

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(4) For an employee who is a licensed health care practitioner as defined in s. 456.001, training that is sanctioned by that practitioner's licensing board shall be considered to be approved by the Department of Elderly Affairs.

(5) The Department of Elderly Affairs or its designee must approve the initial and continuing training provided in the facilities. The department must approve training offered in a variety of formats, including, but not limited to, internet-based training, videos, teleconferencing, and classroom instruction. The department shall keep a list of current providers who are approved to provide initial and continuing training. The department shall adopt rules to establish standards for the trainers and the training required in this section.

(6) Upon completing any training listed in this section, the employee or direct caregiver shall be issued a certificate that includes the name of the training provider, the topic covered, and the date and signature of the training provider. The certificate is evidence of completion of training in the identified topic, and the employee or direct caregiver is not required to repeat training in that topic if the employee or direct caregiver changes employment to a different facility or to an assisted living facility, home health agency, adult day care center, or adult family-care home. The direct caregiver must comply with other applicable continuing education requirements.

ST - N0165 - Closing a Nursing Home - Requirements

Title Closing a Nursing Home - Requirements

Rule 400.18, F.S.

Type Rule

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Regulation Definition

Interpretive Guideline

400.18 Closing of nursing facility.

(1) Whenever a licensee voluntarily discontinues operation, and during the period when it is preparing for such discontinuance, it shall inform the agency not less than 90 days prior to the discontinuance of operation. The licensee also shall inform the resident or the next of kin, legal representative, or agency acting on behalf of the resident of the fact, and the proposed time, of such discontinuance and give at least 90 days' notice so that suitable arrangements may be made for the transfer and care of the resident. In the event any resident has no such person to represent him or her, the licensee shall be responsible for securing a suitable transfer of the resident before the discontinuance of operation. The agency shall be responsible for arranging for the transfer of those residents requiring transfer who are receiving assistance under the Medicaid program.

(2) A representative of the agency shall be placed in a facility 30 days before the voluntary discontinuance of operation, or immediately upon the determination by the agency that the licensee is discontinuing operation or that existing conditions or practices represent an immediate danger to the health, safety, or security of the residents in the facility, to:

- (a) Monitor the transfer of residents to other facilities.
- (b) Ensure that the rights of residents are protected.
- (c) Observe the operation of the facility.
- (d) Assist the management of the facility by advising the management on compliance with state and federal laws and rules.
- (e) Recommend further action by the agency.

(3) The agency shall discontinue the monitoring of a facility pursuant to subsection (2) when:

- (a) All residents in the facility have been relocated; or

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(b) The agency determines that the conditions which gave rise to the placement of a representative of the agency in the facility no longer exist and the agency is reasonably assured that those conditions will not recur.

(4) Immediately upon discontinuance of operation of a facility, the licensee shall surrender the license therefor to the agency, and the license shall be canceled.

ST - N0181 - Right to Civil, Religious Liberties & Choice

Title Right to Civil, Religious Liberties & Choice

Rule 400.022(1)(a),F.S.

Type Rule

Regulation Definition

Interpretive Guideline

400.022

(1) All licensees of nursing home facilities shall adopt and make public a statement of the rights and responsibilities of the residents of such facilities and shall treat such residents in accordance with the provisions of that statement. The statement shall assure each resident the following:

(a) The right to civil and religious liberties including knowledge of available choices and the right to independent personal decision which will not be infringed upon, and the right to encouragement and assistance from the staff of the facility in the fullest possible exercise of these rights.

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ST - N0182 - Right to Private, Uncensored Communication

Title Right to Private, Uncensored Communication

Rule 400.022(1)(b), F.S.

Type Rule

Regulation Definition

Interpretive Guideline

400.022(1)

(b) The right to private and uncensored communication, including, but not limited to, receiving and sending unopened correspondence, access to a telephone, visiting with any person of the resident's choice during visiting hours, and overnight visitation outside the facility with family and friends in accordance with facility policies, physician orders, and Title XVIII (Medicare) and Title XIX (Medicaid) of the Social Security act regulation, without the resident's losing his or bed.

ST - N0183 - Visiting Hours

Title Visiting Hours

Rule 400.022(1)(b),F.S.

Type Rule

Regulation Definition

Interpretive Guideline

400.022(1)

(b) Facility visiting hours shall be flexible taking into consideration special circumstances such as, but not limited to out-of-town visitors and working relatives or friends.

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ST - N0184 - Volunteers in Nursing Homes

Title Volunteers in Nursing Homes

Rule 400.022(1)(b), F.S.

Type Rule

Regulation Definition

400.022(1)

(b) Unless otherwise indicated in the resident care plan, the licensee shall, with the consent of the resident and in accordance with policies approved by the agency, permit recognized volunteer groups, re-presenting of community-based legal, social, mental health, and leisure programs, and members of the clergy access to the facility during visiting hours for the purpose of visiting with and providing services to any resident.

Interpretive Guideline

400.1413 Volunteers in nursing homes.

(1) It is the intent of the Legislature to encourage the involvement of volunteers in nursing homes in this state. The Legislature also acknowledges that the licensee is responsible for all the activities that take place in the nursing home and recognizes the licensee's need to be aware of and coordinate volunteer activities in the nursing home. Therefore, a nursing home may require that volunteers:

- (a) Sign in and out with staff of the nursing home upon entering or leaving the facility.
- (b) Wear an identification badge while in the building.
- (c) Participate in a facility orientation and training program.

(2) This section does not affect the activities of state or local long-term-care ombudsman councils authorized under part I.

ST - N0185 - Access to Residents - Govt Officials

Title Access to Residents - Govt Officials

Rule 400.022(1)(c)1., F.S

Type Rule

Regulation Definition

400.022(1)

(c) Any entity or individual that provides health, social, legal, or other services to a resident has the right to have reasonable access to the resident. The resident has the right to deny or withdraw consent to access at any time by any entity or

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individual. Notwithstanding the visiting policy of the facility, the following individuals must be permitted immediate access to the resident:

1. Any representative of the federal or state government, including, but not limited to, representatives of the Department of Health and Rehabilitative Services, the Agency for Health Care Administration, and the Department of Elderly Affairs; any law enforcement officer; members of the state or district ombudsman council; and the resident's individual physician.

ST - N0186 - Access to Residents - Family

Title Access to Residents - Family

Rule 400.022(1)(c)2., F.S.

Type Rule

Regulation Definition

Interpretive Guideline

400.022(1)

(c) Any entity or individual that provides health, social, legal, or other services to a resident has the right to have reasonable access to the resident. The resident has the right to deny or withdraw consent to access at any time by any entity or individual. Notwithstanding the visiting policy of the facility, the following individuals must be permitted immediate access to the resident:

2. Subject to the resident's right to deny or withdraw consent, immediate family or other relatives of the resident.

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ST - N0187 - Ombudsman Access to Records

Title Ombudsman Access to Records

Rule 400.022(1)(c), F.S.

Type Rule

Regulation Definition

Interpretive Guideline

400.022(1)

(c) The facility must allow representatives of the State Nursing Home and Long-Term Care Facility Ombudsman Council to examine a resident's clinical records with the permission of the resident or the resident's legal representative and consistent with state law.

ST - N0188 - Right to File Grievances

Title Right to File Grievances

Rule 400.022(1)(d), F.S.

Type Rule

Regulation Definition

Interpretive Guideline

400.022(1)

Also see N0042.

(d) The right to present grievances on behalf of himself or herself or others to the staff or administrator of the facility, to governmental officials, or to any other persons; to recommend changes in policies and services to facility personnel; and to join with other residents or individuals within or outside the facility to work for improvements in resident care, free from restraint, interference, coercion, discrimination, or reprisal. This right includes access to ombudsmen and advocates and the right to be a member of, to be active in, and to associate

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with advocacy or special interest groups. The right also includes the right to prompt efforts by the facility to resolve resident grievances, including grievances with respect to the behavior of other residents.

ST - N0189 - Right to Organize Resident/ Family Groups

Title Right to Organize Resident/ Family Groups

Rule 400.022(1)(e), F.S.

Type Rule

Regulation Definition

Interpretive Guideline

400.022(1)

(e) The right to organize and participate in resident groups in the facility and the right to have the resident's family meet in the facility with the families of other residents.

ST - N0190 - Right to Activities - Social, Religious, Comm

Title Right to Activities - Social, Religious, Comm

Rule 400.022(1)(f), F.S.

Type Rule

Regulation Definition

Interpretive Guideline

400.022(1)

(f) The right to participate in social, religious, and community activities that do not interfere with the rights of other residents.

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ST - N0191 - Right to View Inspection Results

Title Right to View Inspection Results

Rule 400.022(1)(g), F.S.

Type Rule

Regulation Definition

Interpretive Guideline

400.022(1)

Also see N0430

(g) The right to examine, upon reasonable request, the results of the most recent inspection of the facility conducted by a federal or state agency and any plan of correction in effect with respect to the facility.

ST - N0192 - Right to Handle Finances

Title Right to Handle Finances

Rule 400.022(1)(h), F.S.

Type Rule

Regulation Definition

Interpretive Guideline

400.022(1)

(h) The right to manage his or her own financial affairs or to delegate such responsibility to the licensee, but only to the extent of the funds held in trust by the licensee for the resident. A quarterly accounting of any transactions made on behalf of the resident shall be furnished to the resident or the person responsible for the resident. The facility may not require a resident to deposit personal funds with the facility. However, upon written authorization of a resident, the facility must hold, safeguard, manage, and account for the personal funds of the resident deposited with the facility as follows;

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ST - N0193 - Resident Funds Accounting

Title Resident Funds Accounting

Rule 400.022(1)(h)1., F.S.

Type Rule

Regulation Definition

Interpretive Guideline

400.022(1)

(h)1. The facility must establish and maintain a system that ensures a full, complete, and separate accounting, according to generally accepted accounting principles, of each resident's personal funds entrusted to the facility on the resident's behalf.

ST - N0194 - Accounting Precludes Commingling of Funds

Title Accounting Precludes Commingling of Funds

Rule 400.022(1)(h)2., F.S.

Type Rule

Regulation Definition

Interpretive Guideline

400.022(1)

(h)2. The accounting system established and maintained by the facility must preclude any commingling of resident funds with facility funds or with funds of any person other than another resident.

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ST - N0195 - Right to Quarterly Accounting of Funds

Title Right to Quarterly Accounting of Funds

Rule 400.022(1)(h)3., F.S.

Type Rule

Regulation Definition

Interpretive Guideline

400.022(1)

(h)3. A quarterly accounting of any transaction made on behalf of the resident shall be furnished to the resident or the person responsible for the resident.

ST - N0196 - Deceased Resident Funds to Estate

Title Deceased Resident Funds to Estate

Rule 400.022(1)(h)4., F.S.

Type Rule

Regulation Definition

Interpretive Guideline

400.022(1)

(h) 4. Upon the death of a resident with personal funds deposited with the facility, the facility must convey within 30 days the resident's funds, including interest, and a final accounting of those funds, to the individual or probate jurisdiction administering the resident's estate, or, if a personal representative has not been appointed within 30 days, to the resident's spouse or adult next of kin named in the beneficiary designation form provided for in s. 400.162(6).

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ST - N0197 - Charge Against Resident Funds

Title Charge Against Resident Funds

Rule 400.022(1)(h)5., F.S.

Type Rule

Regulation Definition

Interpretive Guideline

400.022(1)

(h) 5. The facility may not impose a charge against the personal funds of a resident for any item or service for which payment is made under Title XVIII or Title XIX of the Social Security Act.

ST - N0198 - Right to be Informed of Charges

Title Right to be Informed of Charges

Rule 400.022(1)(i), F.S.

Type Rule

Regulation Definition

Interpretive Guideline

400.022(1)

(i) The right to be fully informed, in writing and orally, prior to or at the time of admission and during his or her stay, of services available in the facility and of related charges for such services, including any charges for services not covered under Title XVII or Title XIX of the Social Security Act or not covered by the basic per diem rates and of bed reservation and refund policies of the facility.

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ST - N0199 - Right to be Informed of Medical Condition

Title Right to be Informed of Medical Condition

Rule 400.022(1)(j),F.S.

Type Rule

Regulation Definition

Interpretive Guideline

400.022(1)

Also see N0073

(j) The right to be adequately informed of his or her medical condition and proposed treatment, unless the resident is determined to be unable to provide informed consent under Florida law, or the right to be fully informed in advance of any nonemergency changes in care or treatment that may affect the resident's well-being; and, except with respect to a resident adjudged incompetent, the right to participate in the planning of all medical treatment, including the right to refuse medication and treatment, unless otherwise indicated by the resident's physician; and to know the consequences of such actions.

ST - N0200 - Right to Refuse Treatment

Title Right to Refuse Treatment

Rule 400.022(1)(k),F.S.

Type Rule

Regulation Definition

Interpretive Guideline

400.022(1)

(k) The right to refuse medication or treatment and to be informed of the consequences of such decisions, unless determined unable to provide informed consent under state

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law. when the resident refuses dedication or treatment, the nursing home facility must notify the resident or the resident's legal representative of the consequences of such decisions in his or her medical record. The nursing home facility must continue to provide other services the resident agrees to in accordance with the resident's care plan.

ST - N0201 - Right to Adequate and Appropriate Health Care

Title Right to Adequate and Appropriate Health Care

Rule 400.022(1)(l),F.S.

Type Rule

Regulation Definition

Interpretive Guideline

400.022(1)

(l) The right to receive adequate and appropriate health care and protective and support services, if available; planned recreational activities; and therapeutic and rehabilitative services consistent with the resident care plan, with established and recognized practice standards within the community, and with rules as adopted by the agency.

ST - N0202 - Right to Privacy

Title Right to Privacy

Rule 400.022(1)(m),F.S.

Type Rule

Regulation Definition

Interpretive Guideline

400.022(1)

(m). The right to have privacy in treatment and in caring for personal needs; to close room doors and to have facility

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personnel knock before entering the room, except in the case of an emergency or unless medically contraindicated; and to security in storing and using personal possessions. Privacy of the resident's body shall be maintained during, but not limited to, toileting, bathing, and other activities of personal hygiene, except as needed for resident safety or assistance. Resident's personal and medical records shall be confidential and exempt from the provisions of s.119.07(1). This exemption is subject to the Open Government Sunset Review Act in accordance with us. 119.14.

ST - N0203 - Right to be Treated with Dignity

Title Right to be Treated with Dignity

Rule 400.022(1)(n), F.S.

Type Rule

Regulation Definition

Interpretive Guideline

400.022(1)

(n). The right to be treated courteously, fairly, and with the fullest measure of dignity and to receive a written statement and an oral explanation of the services provided by the licensee, including those required to be offered on an as-needed basis.

ST - N0204 - Right to be Free from Abuse, Restraints, etc

Title Right to be Free from Abuse, Restraints, etc

Rule 400.022(1)(o), F.S.

Type Rule

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Regulation Definition

Interpretive Guideline

400.022(1)

(o) The right to be free from mental and physical abuse, corporal punishment, extended involuntary seclusion, and from physical and chemical restraints, except those restraints authorized on writing by a physician for a specified and limited period of time or as are necessitated by an emergency. In case of an emergency, restraint may be applied only by a qualified licensed nurse who shall set forth in writing the circumstances requiring the use of restraint, and, in the case of use of a chemical restraint, a physician shall be consulted immediately thereafter. Restraints may not be used in lieu of staff supervision or merely for staff convenience, for punishment, or for reasons other than resident protection or safety.

ST - N0205 - Rights to Choose Physician/ Pharmacy

Title Rights to Choose Physician/ Pharmacy

Rule 400.022(1)(q), F.S.

Type Rule

Regulation Definition

Interpretive Guideline

400.022(1)

(q) The right to freedom of choice in selecting a personal physician; to obtain pharmaceutical supplies and services from a pharmacy of the resident's choice, at the resident's own expense or through Title XIX of the Social Security Act; and to obtain information about, and to participate in, community-based activities programs, unless medically contraindicated as documented by a physician in the resident's medical record. If a resident chooses to use a community

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pharmacy and the facility in which the resident resides uses a unit-dose system, the pharmacy selected by the resident shall be one that provides a compatible unit-dose system, provides service delivery, and stocks the drugs normally used by long-term care residents. If a resident chooses to use a community pharmacy and the facility in which the resident resides does not use a unit-dose system, the pharmacy selected by the resident shall be one that provides service delivery and stocks the drugs normally used by long-term care residents.

ST - N0206 - Right to Use Personal Belongings and Possess

Title Right to Use Personal Belongings and Possess

Rule 400.022(1)(r), F.S.

Type Rule

Regulation Definition

Interpretive Guideline

400.002(1)

(r) The right to retain and use personal clothing and possessions as space permits, unless to do so would infringe upon the rights of other residents or unless medically contraindicated as documented in the resident's medical record by a physician. If clothing is provided to the resident by the licensee, it shall be of reasonable fit.

ST - N0207 - Right to Copies of Rules and Regulations

Title Right to Copies of Rules and Regulations

Rule 400.022(1)(s), F.S.

Type Rule

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Regulation Definition

Interpretive Guideline

400.022(1)

(s) The right to have copies of the rules and regulations of the facility and an explanation of the responsibility of the resident to obey all reasonable rules and regulations of the facility and to respect the personal rights and private property of the other residents.

ST - N0208 - Right to Notice of Room Change

Title Right to Notice of Room Change

Rule 400.022(1)(t), F.S.

Type Rule

Regulation Definition

Interpretive Guideline

400.022(1)

(t) The right to receive notice before the room of the resident in the facility is changed.

ST - N0209 - Right to Bed Hold Policy

Title Right to Bed Hold Policy

Rule 400.022(1)(u), F.S.

Type Rule

Regulation Definition

Interpretive Guideline

400.022(1)

(u) The right to be informed of the bed reservation policy for a hospitalization. The nursing home shall inform a private-pay resident and his or her responsible party that his or her bed

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will be reserved for any single hospitalization for a period up to 30 days provided the nursing home receives reimbursement. Any resident who is a recipient of assistance under Title XIX of the Social Security Act, or the resident's designee or legal representative, shall be informed by the licensee that his or her bed will be reserved for any single hospitalization for the length of time for which Title XIX reimbursement is available, up to 15 days; but that the bed will not be reserved if it is medically determined by the agency that the resident will not need it or will not be able to return to the nursing home, or if the agency determines that the nursing home's occupancy rate ensures the availability of a bed for the resident. Notice shall be provided within 24 hours of the hospitalization.

ST - N0210 - Right to Challenge Discharge/ Transfer Dec

Title Right to Challenge Discharge/ Transfer Dec

Rule 400.022(1)(v), F.S.

Type Rule

Regulation Definition

Interpretive Guideline

400.022(1)

(v) For residents of Medicaid or Medicare certified facilities, the right to challenge a decision by the facility to discharge or transfer the resident, as required under Title 42 C.F.R. part 483.13.

ST - N0211 - Resident Rights Notice

Title Resident Rights Notice

Rule 400.022(2), F.S.

Type Rule

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Regulation Definition

Interpretive Guideline

400.022

(2) The licensee for each nursing home shall orally inform the resident of the resident's rights and provide a copy of the statement required by subsection (1) to each resident or the resident's legal representative at or before the resident's admission to a facility. The licensee shall provide a copy of the resident's rights to each staff member of the facility. Each such licensee shall prepare a written plan and provide appropriate staff training to implement the provisions of this section. The written statement of rights must include a statement that a resident may file a complaint with the agency or district ombudsman council. The statement must be in boldfaced type and shall include the name, address, and telephone numbers of the district ombudsman council and adult abuse registry where complaints may be lodged.

ST - N0212 - Violation of Rights - Grounds for Action

Title Violation of Rights - Grounds for Action

Rule 400.022(3), F.S.

Type Rule

Regulation Definition

Interpretive Guideline

400.022(3)

Any violation of the resident's rights set forth in this section shall constitute grounds or action by the agency under the provisions of s. 400.102. In order to determine whether the licensee is adequately protecting residents' rights, the annual inspection of the facility shall include private informal conversations with a sample of residents to discuss residents' experiences within the facility with respect to rights specified

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in this section and general compliance with standards, and consultation with the ombudsman council in the district in which the nursing home is located.

ST - N0213 - Right for Discharge/ Transfer

Title Right for Discharge/ Transfer

Rule 400.022(1)(p), F.S.

Type Rule

Regulation Definition

400.022(1)

(p) The right to be transferred or discharged only for medical reasons or for the welfare of other residents, and the right to be given reasonable advance notice of no less than 30 days of any involuntary transfer or discharge, except in the case of an emergency as determined by a licensed professional on the staff of the nursing home, or in the case of conflicting rules and regulations which govern Title XVIII or Title XIX of the Social Security Act. For nonpayment of a bill for care received, the resident shall be given 30 days' advance notice. A licensee certified to provide services under Title XIX of the Social Security Act may not transfer or discharge a resident solely because the source of payment for care changes. Admission to a nursing home facility operated by a licensee certified to provide services under Title XIX of the Social Security Act may not be conditioned upon a waiver of such right, and any document or provision in a document which purports to waive or preclude such right is void and unenforceable. Any licensee certified to provide services under Title XIX of the Social Security Act that obtains or attempts to obtain such a waiver from a resident or potential resident shall be construed to have violated the resident's rights as established herein and is subject to disciplinary action as provided in subsection (3). The resident and the

Interpretive Guideline

Also see N0500 series.

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family or representative of the resident shall be consulted in choosing another facility.

ST - N0214 - Falsifying Records

Title Falsifying Records

Rule 400.1415(1), F.S.

Type Rule

Regulation Definition

Interpretive Guideline

400.1415 (1)

Any person who fraudulently alters, defaces, or falsifies any medical or other nursing home record, or causes or procures any of these offenses to be committed, commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

ST - N0215 - Penalty for Falsifying of Records

Title Penalty for Falsifying of Records

Rule 400.1415(2), F.S.

Type Rule

Regulation Definition

Interpretive Guideline

400.1415(2)

A conviction under subsection (1) is also grounds for restriction, suspension, or termination of license privileges.

400.102

(1) Any of the following conditions shall be grounds for

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action by the agency against a licensee:

(e) Fraudulent altering, defacing, or falsifying any medical or nursing home records, or causing or procuring any of these offenses to be committed

ST - N0216 - Health and Safety of Resident

Title Health and Safety of Resident

Rule 400.102(1)(a)

Type Rule

Regulation Definition

Interpretive Guideline

400.102(1)(a)

(1) Any of the following conditions shall be grounds for action by the agency against a licensee;

(a) An intentional or negligent act materially affecting the health or safety of residents of the facility.

Use this deficiency when the survey team determines there are quality of care deficiencies with negative outcome not specifically addressed in other Florida regulation.

ST - N0270 - Pediatric Residents - Standards

Title Pediatric Residents - Standards

Rule 59A-4.1295, F.A.C.

Type Rule

Regulation Definition

Interpretive Guideline

59A-4.1295 Additional Standards for Homes That Admit Children 0 Through 20 Years of Age.

(1) Nursing homes who accept children with a level of care of Intermediate I or II, skilled or fragile must meet the following standards as indicated. Intermediate I and II are defined in 59G-4, F.A.C. Children considered skilled have a chronic debilitating disease or condition of one or more physiological

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or organ systems that generally make the child dependent upon 24 hour per day medical, nursing, or health supervision or intervention. Fragile children are medically complex and the medical condition is such that they are technologically dependent through medical apparatus or procedure(s) to sustain life and who can expire, without warning unless continually under observation.

(2) Each child shall have an assessment upon admission by licensed physical, occupational, and speech therapists experienced in working with children. Therapies will be administered based upon the outcome of these assessments and the orders of the child's physician.

(3) Admission criteria.

(a) The child must require intermediate, skilled or fragile nursing care, and be medically stable, as documented by the physician determining level of care.

(b) For nursing facility placement a recommendation shall be made in the form of a written order by the child's attending physician in consultation with the parent(s) or legal guardian(s). For Medicaid certified nursing facilities, the recommendations for placement of a Medicaid applicant or recipient in the nursing facility shall be made by the Multiple Handicap Assessment Team. Consideration must be given to relevant medical, emotional, psychosocial, and environmental factors.

(c) Each child admitted to the nursing home facility shall have a plan of care developed by the interdisciplinary care plan team. The plan of care shall consist of those items listed below.

1. Physician's orders, diagnoses, medical history, physical examination and rehabilitative or restorative needs.
2. A preliminary nursing evaluation with physician orders for

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immediate care, completed on admission.

3. A comprehensive, accurate, reproducible, and standardized assessment of each child's functional capability which is completed within 14 days of the child's admission to the facility and every twelve months thereafter. The assessment shall be:

- a. Reviewed no less than once every 120 days;
- b. Reviewed promptly after a significant change in the child's physical or mental condition; or
- c. Revised as appropriate to assure the continued usefulness of the assessment.

4. The plan of care shall also include measurable objectives and timetables to meet the child's medical, nursing, mental and psychosocial needs identified in the comprehensive assessment. The care plan must describe the services that are to be furnished to attain or maintain the child's highest practicable physical, mental, social and educational well-being. The care plan must be completed within 7 days after completion of the child's assessments required in (3) above.

5. In order to enhance the quality of life of each child ages 3 years through 15 years, the facility must notify by certified mail the school board in the county in which the facility is located that there is a school-age child residing in the facility. Children ages 16 through 20 years may be enrolled in an education program according to their ability to participate. Program participation for each child regardless of age is predicated on their intellectual function, physical limitations, and medical stability. Collaborative planning with the public school system and community at-large is necessary to produce integrated and inclusive settings which meet each child's needs. The failure or inability on the part of City, County, State, or Federal school system to provide an educational

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program according to the child's ability to participate shall not obligate the facility to supply or furnish an educational program or bring suit against any City, County, State, or Federal organizations for their failure or inability to provide an educational program. Nothing contained herein is intended to prohibit, restrict or prevent the parents or legal guardian of the child from providing a private educational program that meets applicable State laws.

6. At the child's guardian's option, every effort shall be made to include the child and his or her family or responsible party, including private duty nurse or nursing assistant, in the development, implementation, maintenance and evaluation of the child's plan of care.

7. All employees of the facility who provide hands on care, shall be knowledgeable of, and have access to, the child's plan of care.

8. A summary of the child's plan of care shall accompany each child discharged or transferred to another health care facility or shall be forwarded to the facility receiving the child as soon as possible consistent with good medical practice.

(4) The child's attending physician, licensed under Chapter 458 or 459, F.S., shall maintain responsibility for the overall medical management and therapeutic plan of care and will be available for face-to-face consultation and collaboration with the nursing facility medical and nursing director. At a minimum, the physician or his or her designee shall:

- (a) evaluate and document the status of the child's condition at least monthly;
- (b) review and update the plan of care every 60 days;
- (c) prepare orders as needed and accompany them by a signed progress note in the child's medical record; and

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(d) co-sign verbal orders no more than 72 hours after the order is given. Physician orders may be transmitted by facsimile machine. It is not necessary for a physician to re-sign a facsimile order when he or she visits a facility. Orders transmitted via computer mail are not acceptable. Verbal orders not co-signed within seventy-two (72) hours shall not be held against the facility if it has documented timely, good-faith efforts to obtain said co-signed orders.

(5) The following must be completed for each child. An RN shall be responsible for ensuring these tasks are accomplished:

- (a) informing the attending physician and medical director of beneficial and untoward effects of the therapeutic interventions;
- (b) maintaining the child's record in accordance with facility policies and procedures; and
- (c) instructing or arranging for the instruction of the parent(s), legal guardian(s), or other caretaker(s) on how to provide the necessary interventions, how to interpret responses to therapies, and how to manage unexpected responses in order to facilitate a smooth transition from the nursing facility to the home or other placement. This instruction will cover care coordination and will gradually pass the role of care coordinator to the parent or legal guardian, as appropriate.

(6) The facility shall provide the following:

- (a) A minimum of 100 square feet in a single bedroom and 80 square feet per child in multiple bedrooms;
- (b) Bathroom and bathing facilities appropriate to the child's needs to allow for:
 - 1. toileting functions with privacy (a door to the bathroom will be provided); and
 - 2. stall showers and tubs.
- (c) There shall be indoor activities areas that:
 - 1. encourage exploration and maximize the child's capabilities;

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2. accommodate mobile and non-mobile children; and
3. support a range of activities for children and adolescents of varying ages and abilities.

(d) There shall be an outdoor activity area that is:

1. Secure with areas of sun and shade;
2. Free of safety hazards; and
3. Equipped with age appropriate recreational equipment for developmental level of children and has storage space for same.

(e) All furniture and adaptive equipment must be physically appropriate to the developmental and medical needs of the children;

(f) Other equipment and supplies shall be made available to meet the needs of the children as prescribed or recommended by the attending physician or medical director and in accordance with professional standards of care.

(7) For those nursing facilities who admit children age 0 through 15 years of age the following standards apply in addition to those above and throughout 59A-4.

(a) Each child shall have an assessment upon admission by licensed physical, occupational, and speech therapists who are experienced in working with children. Therapies will be administered based upon the outcome of these assessments and the orders of the child's physician.

(b) The facility shall have a contract with a board certified pediatrician who serves as a consultant and liaison between the nursing facility and the medical community for quality and appropriateness of services to children.

(c) The facility must assure that pediatric physicians are available for routine and emergency consultation to meet the child's needs.

(d) The facility must ensure that children reside in distinct and separate units from adults.

(e) The facility shall be equipped and staffed to accommodate

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no more than sixty (60) children at any given time, of which there shall be no more than 40 children of ages 0 through 15 at any given time, nor more than 40 children of ages 16 through 20 at any given time.

(f) The facility must provide access to emergency and other forms of transportation for children.

(g) At least one licensed health care staff person with current Life Support certification for children shall be on the unit at all times where children are residing.

(h) The facility shall maintain an Emergency Medication Kit of pediatric medications, as well as adult dosages for those children who require adult doses. The contents in the Emergency Medication Kit shall be determined in consultation with the Medical Director, Director of Nursing, a registered nurse who has current experience working with children, and a Pharmacist who has pediatric expertise. The kit shall be readily available and shall be kept sealed. All items in the kit shall be properly labeled. The facility shall maintain an accurate log of receipt and disposition of each item in the Emergency Medication Kit. An inventory to include expiration dates of the contents of the Emergency Medication Kit shall be attached to the outside of the kit. If the seal is broken, the kit must be resealed the next business day after use.

(i) Each nursing home facility shall develop, implement, and maintain a written staff education plan which ensures a coordinated program for staff education for all facility employees who work with children. The plan shall:

1. Be reviewed at least annually by the quality assurance committee and revised as needed.
2. Include both pre-service and in-service programs. In-service for each department must include pediatric-specific requirements as relevant to its discipline.
3. Ensure that education is conducted annually for all facility employees who work with children, at a minimum, in the following areas:

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- a. Childhood diseases to include prevention and control of infection;
 - b. Childhood accident prevention and safety awareness programs.
4. Ensure that all non-licensed employees of the nursing home complete an initial educational course on HIV and AIDS, preferably pediatric HIV and AIDS. If the employee does not have a certificate of completion at the time they are hired, they must have two hours within six months of employment. All employees shall have a minimum of one hour biennially.
- (j) All facility staff shall receive in-service training in and demonstrate awareness of issues particular to pediatric residents annually.

(8) For the purposes of this rule, nursing care shall consist of the following:

(a) For residents who are skilled: registered nurses, licensed practical nurses, respiratory therapists, respiratory care practitioners, and certified nursing assistants (CNA's). The child's nursing care shall be as follows:

- 1. There shall be one registered nurse on duty, on-site 24 hours per day on the unit where children reside. There shall be an average of 3.5 hours of nursing care per patient day.
- 2. In determining the minimum hours of nursing care required above, there shall be no more than 1.5 hours per patient day of certified nursing assistant (CNA) care and no less than 1.0 hours per patient day of licensed nursing care.

(b) For residents who are fragile: registered nurses, licensed practical nurses, respiratory therapists, respiratory care practitioners, and certified nursing assistants. The child's nursing care shall be as follows:

- 1. One registered nurse on duty, on-site 24 hours per day on the unit where children reside. There shall be an average of 5.0 hours of nursing care per patient day.
- 2. In determining the minimum hours per patient day required

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above, there shall be no more than 1.5 hours per patient day of CNA care, and no less than 1.7 hours per patient day of licensed nursing care.

(c) In the event that there are more than forty-two (42) children in the facility, there shall be no fewer than two (2) registered nurses on duty, on-site, 24 hours per day on the unit where the children reside.

(9) A qualified dietitian with knowledge, expertise and experience in the nutritional management of medically involved children shall evaluate the needs and special diet of each child at least every 60 days.

(10) The pharmacist will have access to appropriate knowledge concerning pediatric pharmaceutical procedures, i.e., total parenteral nutrition (TPN) infusion regime and be familiar with pediatric medications and dosages.

(11) The nursing facility shall maintain or contract as needed for pediatric dental services.

(12) Safety equipment, such as child proof safety latches on closets, cabinets, straps on all seating services, locks on specific storage cabinets, bumper pads on cribs and car seats for transporting must be used whenever appropriate to ensure the safety of the child.

(13) Pediatric equipment and supplies shall be available as follows:

- (a) Suction machines, one per child requiring suction, plus one suction machine for emergency use;
- (b) Oxygen, in portable tanks with age appropriate supplies;
- (c) Thermometers;
- (d) Sphygmomanometers, stethoscopes, otoscopes; and
- (e) Apnea monitor and pulse oximeter.

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(14) Other equipment and supplies shall be made available to meet the needs of the children as prescribed or recommended by the attending physician or medical director and in accordance with professional standards of care.

ST - N0280 - Geriatric Outpatient Clinic Standards

Title Geriatric Outpatient Clinic Standards

Rule 59A-4.150, F.A.C.

Type Rule

Regulation Definition

Interpretive Guideline

59A-4.150 Geriatric Outpatient Nurse Clinic.

(1) Definitions

(a) Advanced Registered Nurse Practitioner -- a person who holds a current active license to practice professional nursing and a current Advanced Registered Nurse Practitioner certificate issued by the Florida State Board of Nursing.

(b) Appropriate Resources -- those service providers who provide most effectively and efficiently the specific services needed by the geriatric patient.

(c) Agency for Health Care Administration -- AHCA.

(d) Geriatric Outpatient Nurse Clinic -- a site in a nursing home treatment room for the provision of health care to geriatric patients on an outpatient basis which is staffed by a registered nurse or by a physician's assistant.

(e) Geriatric Patient -- any patient who is 60 years of age or older.

(f) Nursing Facility -- a facility licensed under Part I of Chapter 400, Florida Statutes.

(g) Physician's Assistant -- a person who holds a current certificate issued by the Florida State Board of Medical Examiners or Florida State Board of Osteopathic Medical

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Examiners, to serve as a physician's assistant to function in the dependent relationship with the supervising physician.

(Sections 458.135(2)(d); 459.151(2)(d), F.S.)

(h) Pre-established Protocols -- a statement prepared by or with the responsible or attending physician defining the extent and limits of the medical services provided by the nurse. Such protocols are to be reviewed at periods not to exceed one year, to be dated and signed by the physician, and to be kept readily available.

(i) Professional Standards of Practice -- those measurements or guides for practice developed and/or endorsed by the respective professional disciplines.

(j) Registered Dietitian -- one who meets the standards and qualifications established by the Committee on Professional Registration of the American Dietetic Association and is currently registered with the American Dietetic Association.

(k) Registered Nurse -- a person who holds a current active license to practice professional nursing issued by the Florida State Board of Nursing. (Section 464.071, F.S.)

(l) Responsible Physician -- the licensed physician delegated by the supervising physician as responsible for the services rendered by the physician's assistant in the absence of the supervising physician.

(m) Routine Health Care -- the provision of preventive care, detection of health problems, referral for medical care, and management of chronic illness within medical prescriptions.

(n) Substantive Change -- when the patient's condition changes to such an extent that a change in treatment and/or medication orders is indicated or when pre-established protocols are not applicable.

(o) Supervising Physician -- the licensed physician assuming responsibility and legal liability for the services rendered by the physician's assistant. (Sections 458.135(2)(e); 459.151(2), (3), F.S.)

(p) Treatment Room -- the room or suite of rooms set aside for

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the examination and care of patients.

(2) Applications

(a) A letter shall be sent through the local county health unit to the AHCA by the operator of a currently licensed nursing home stating intent to establish a geriatric outpatient nurse clinic in compliance with Chapter 400, F.S., Chapter 77-401, Laws of Florida, and the rules pertaining to these Chapters. A copy of said letter shall be sent to the Health Program Office of the Department of Health and Rehabilitative Services by the local county health unit. This letter shall be sent at least sixty (60) days prior to the anticipated date of establishment of the clinic. The Director, County Health Unit shall provide specific recommendations for operation of the clinic when transmitting the letter.

(b) The AHCA shall ascertain compliance with all applicable laws, rules, regulations, and codes and by letter notify the operator of compliance or non-compliance.

(c) Receipt of the letter of notification stating compliance shall constitute authority to operate a geriatric outpatient nurse clinic within the facility.

(d) Application for renewal of authority to operate a geriatric outpatient nurse clinic shall be submitted in the manner described above at the same time the application for the nursing home relicensure is submitted.

(e) Suspension or revocation of the nursing home license automatically suspends or revokes authority to operate the geriatric outpatient nurse clinic.

(f) A Certificate of Need issued by the AHCA required by Sections 381.493 through 381.497 is a pre-requisite to establish a geriatric outpatient nurse clinic.

(3) Treatment Rooms and Access Areas

(a) Plant maintenance and housekeeping shall be in accordance with Rule 59A-4.049, F.A.C.

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(b) Every facility conducting a geriatric outpatient nurse clinic shall:

1. Use an existing treatment room exclusively for the examination and treatment of patients.
2. Store supplies and equipment in such a manner that safeguards patients and staff from hazards.
3. Have a waiting area which does not interfere with regular in-patient functions.
4. Provide clinic patients with the most direct route to and from the treatment room.

(4) Administration

(a) The business and administrative management of the geriatric outpatient nurse clinic shall be under the management control of the facility administrator. This shall include, but not be limited to maintenance of the following written records:

1. Clinic financial records which identify all income by source and describe all expenditures by category in such a manner as to be auditable by community recognized procedure.
2. An accident and incident record, containing a clear description of each accident and any other incident hazardous or deviant behavior of a patient or staff member with names of individuals involved, description of medical and other services provided, by whom such services were provided and the steps taken to prevent recurrence.
3. Personnel records for each clinic employee and/or contractual provider. These records will be kept updated and include current Florida license and certificate numbers. Original application for the position, references furnished and an annual performance evaluation shall be included.
4. A record of personnel policies, including statement of policies affecting personnel and a job description for each person providing clinic services.
5. Clinic schedule.
6. Compliance with requirements of Title VI of the Civil

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Rights Act of 1964.

(b) The provision of health services through geriatric outpatient nurse clinics shall be under the direct management control of the registered nurse or physician's assistant providing those services. Management control of the provision of health services shall contain the following:

1. Assurance that all health services are provided according to legal, ethical and professional practice standards to protect the health, safety and well-being of the patients.
2. Maintenance and confidentiality of clinical records for each patient as required in this Chapter.
3. Responsibility for development and periodic review of written policies and protocols governing patient care, including emergency procedures.
4. Responsibility for development and periodic review of patient referral system.
5. Responsibility for the administration and handling of drugs and biologicals as required in these rules.
6. Maintenance of an individual and cumulative clinic census record.
7. Coordination of patient care with the attending physician and other community health and social agencies and/or facilities.
8. Maintenance of a safe, sanitary clinic environment.

(5) Fiscal Management

(a) There shall be a recognized system of accounting used to accurately reflect business details of the clinic operation and services kept separate from the facility fiscal records.

(b) A reasonable fee, based on cost of operation and services, may be charged for clinic services rendered.

(c) Personnel involved in operating and/or providing clinic services shall not:

1. Pay any commission, bonus, rebate or gratuity to any organization, agency, physician, employee or other person for

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referral of any patients to the clinic.

2. Request or accept any remuneration, rebate, gift, benefit or advantage of any form from any vendor or other supplier because of the purchase, rental, or loan, of equipment, supplies or services for the client and/or patient.

(6) Personnel Policies

(a) Staff in the geriatric outpatient nurse clinic will be governed by their Personnel Standards in Rules and Regulations governing Nursing Homes and Related Health Care Facilities, Rule 59A-4.150(7), F.A.C.

(b) Staff in the geriatric outpatient nurse clinic shall be qualified and sufficient in numbers to perform the necessary services.

(c) Services of this clinic will in no way reduce the minimum staffing standards for in-patient care.

(d) Staff in the geriatric outpatient nurse clinic may be regularly employed or serve on a contractual basis.

(7) Personnel Functions and Responsibilities

(a) Registered Nurse (Section 464.021(2)(a)1., 2., F.S.)

1. The nurse shall have the responsibility for eliciting and recording a health history, observation and assessment, nursing diagnosis, counseling and health teaching of patients and the maintenance of health and prevention of illness. The nurse shall provide treatment for the medical aspects of care according to pre-established protocols or physician's orders.

2. The nurse shall note findings and activities on the clinical record.

3. The nurse shall provide progress reports to the attending physicians about patients under the physician's care when there is a substantive change in the patient's condition, there are deviations from the plan of care, or at least every sixty

(60) days.(b) The Advanced Registered Nurse Practitioner (Section 464.003(3)(c), F.S.)

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1. The Advanced Registered Nurse Practitioner shall perform the functions outlined for the Registered Nurse, and in addition: Provide additional services dependent upon the certification authority of the Advanced Registered Nurse Practitioner by the Florida State Board of Nursing.

2. The Advanced Registered Nurse Practitioner shall note findings and activities on the clinical record.

(c) The Physician's Assistant (Sections 458.347(3); 459.022, F.S.)

1. The Physician's Assistant shall perform health care tasks delegated by the supervising or responsible physician.

2. The Physician's Assistant shall note findings and activities on the clinical record.

(8) Patient Eligibility Criteria

(a) Acceptance of patients and discharge policies shall include but not be limited to the following:

(b) Patients shall be accepted for clinic services on self-referral for nursing care, or upon a plan of treatment established by the patient's attending physician.

(c) The patients with an attending physician will be held responsible for providing the clinic with a written medical plan of treatment reviewed and signed by their physician at least every sixty (60) days.

(d) When services are to be terminated, the patient is to be notified of the date of termination and the reason for termination which shall be documented in the patient's clinical record. A plan shall be developed for a referral made for any continuing care indicated.

(9) Patient's Rights

(a) The facility shall adopt and make public a statement of the rights and responsibilities of the clinic patients and shall treat such patients in accordance with the provisions of said statement. This statement shall be conspicuously posted and

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available to clinic patients in pamphlet form. The statement shall insure each patient the following:

- (b) The right to have private communications with any person of his or her choice.
- (c) The right to present grievances on behalf of himself, herself, or others to the facility's staff or administrator, to government officials, or to any other person without fear of reprisal, and to join with other patients or individuals to work for improvements in patient care.
- (d) The right to be fully informed, in writing, prior to or at the time of admission and during his or her attendance, of fees and services not covered under Title XVIII or Title XIX of the Social Security Act or other third party reimbursement agents.
- (e) The right to be adequately informed of his or her medical condition and proposed treatment unless otherwise indicated in the written medical plan of treatment by the physician, and to participate in the planning of all medical treatment, including the right to refuse medication and treatment, unless otherwise indicated in the written medical plan of treatment by the physician, and to know the consequences of such actions.
- (f) The right to receive adequate and appropriate health care consistent with established and recognized practice standards within the community and with rules as promulgated by the AHCA.
- (g) The right to have privacy in treatment and in caring for personal needs, confidentiality in the treatment of personal and medical records.
- (h) The right to be treated courteously, fairly, and with the fullest measure of dignity and to receive a written statement of the services provided by the facility.
- (i) The right to freedom of choice in selecting a nursing home.
 1. Each nursing home shall post a copy of the statement required by Subsection (9)(a) so that it is clearly evident.
 2. Any violation of the patient's rights set forth in this section shall constitute grounds for action by the AHCA under the

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provisions of Section 400.102, F.S.

(10) Scope of Services of the Geriatric Outpatient Nurse Clinic

- (a) Observation of signs and symptoms.
- (b) Assessment of health status/progress.
- (c) Nursing diagnosis and plan of care.
- (d) Nursing care of patients and counseling to maintain health and prevent disease, including diet counseling.
- (e) Health instruction to control progression of disease and/or disability and self care measures.
- (f) Administration of medication and treatment as prescribed by a person licensed in this state to prescribe such medications and treatment.
- (g) Provision of progress reports to the attending physician.
- (h) Referral for additional services as needed.
- (i) Follow-up on a regular basis by communication with the patient, the patient's physician, and other agencies or persons to which referrals were made.
- (j) When staffed by an Advanced Registered Nurse Practitioner or Physician's Assistant, additional services may be provided dependent upon their respective certification authority. (Sections 458.347; 459.022; 464.003(3)(c), F.S.)

(11) Clinical Records

- (a) The clinic shall maintain a clinical record for every patient receiving health services which shall contain the following:
 - 1. Identification data including name, address, telephone number, date of birth, sex, social security number, clinic case number if used, next of kin, or guardian and telephone number, name and telephone number of patient's attending physician.
 - 2. Assessment of problems.
 - 3. Health Care Plan including diagnosis, type and frequency of services and when receiving medications and medical

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treatments, the medical treatment plan and dated signature of the health professional licensed in this state to prescribe such medications and treatments.

4. Clinical notes, signed and dated by staff providing service.

a. Progress notes with changes in the patient's condition.

b. Services rendered with progress reports.

c. Observations.

d. Instructions to the patient and family.

e. Referrals made.

f. Consultation reports.

g. Case conferences.

h. Reports to physicians.

i. Termination summary:

(i) Date of first and last visit.

(ii) Total number of visits by discipline.

(iii) Reason for termination of service.

(iv) Evaluation of achievements of previously established goals at time of termination.

(v) Condition of patient on discharge.

j. Clinical records shall be confidential. Information may be released by the nurse or physician's assistant responsible for clinical services only:

(i) When permission is granted in writing by the patient or guardian.

(ii) To those persons or agencies with a legitimate professional need or regulatory authority pursuant to section 455.241, F.S.

(iii) When so ordered by the courts.

(12) Medications

The clinic shall have policies and procedures for the administration of medications by health care professionals acting within the scope of practice defined by laws and rules of the Department and the Department of Professional Regulation which shall include, for example, the following:

(a) All prescriptions for medications shall be noted on the

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patient record, and include the date, drug, dosage, frequency, method or site of administration, and the authorized health care professional's signature.

(b) All verbal orders for medications or medication changes shall be taken by the clinic registered nurse or physician's assistant. Such must be in writing and signed by the authorized health care professional within eight (8) days and added to the patient's record.

(c) The clinic registered nurse or physician's assistant shall record and sign for each medication administered, by drug, dosage, method, time and site on patient's record.

(d) An emergency plan for reversal of drug reaction to include the facility's PRN standing orders for medications available in the emergency medication kit.

(e) If there is not a separate emergency medication kit in the clinic, the facility's emergency medication kit shall be immediately accessible for use in the outpatient clinic.

(f) A drug storage system which includes:

1. Prescribed medications for individual outpatients may be retained in the clinic. These medications shall be stored separately from those of the nursing home in-patients for preventive measures and treatment of minor illnesses.
2. Multi-dose containers shall be limited to medications or biologicals commonly prescribed for preventive measures and treatment of minor illnesses.
3. A list shall be kept of patients receiving medication from multi-dose medication containers.

ST - N0300 - Life Safety & Building Code Standards

Title Life Safety & Building Code Standards

Rule 59A-4.130(1), F.A.C.

Type Rule

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Regulation Definition

Interpretive Guideline

59A-4.130(1)

A licensee shall comply with the life safety code requirements and building code standards applicable at the time of departmental approval of the facility's Third Stage - Construction Documents.

ST - N0301 - Administrator Responsible for Fire/ Life Safe

Title Administrator Responsible for Fire/ Life Safe

Rule 59A-4.130(2), F.A.C.

Type Rule

Regulation Definition

Interpretive Guideline

59A-4.130(2)

Fire prevention, fire protection, and life safety practices shall be the responsibility of the facility Administrator.

ST - N0302 - Reports of Fire/ Explosion

Title Reports of Fire/ Explosion

Rule 59A-4.130(3), F.A.C.

Type Rule

Regulation Definition

Interpretive Guideline

59A-4.130(3)

(3) All fires or explosions shall be reported immediately to the local fire department. A written report of each fire or explosion shall be made to the AHCA, with a copy to the director of the local county health unit, within ten days of

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occurrence. Such report shall contain the following information:

- (a) The name and complete address of the facility;
- (b) The date of the report;
- (c) The date, time cause, and location of the fire or explosion;
- (d) The extent of flame, smoke, and water damage;
- (e) The extent of other damage;
- (f) The estimated amount of loss;
- (g) The number of residents with injuries and the number of resident deaths;
- (h) The name and job title of the individual who reported the fire or explosion;
- (i) The time that the fire or explosion was reported and identification of to whom it was reported;
- (j) Information as to whether or not the in-house fire alarm was activated;
- (k) Information as to whether or not the fire or explosion was reported to the local fire department, and if not, an explanation as to why it was not;
- (l) A description of the method used to extinguish the fire;
- (m) Information as to whether or not the facility is equipped with an automatic fire sprinkler system;
- (n) The Administrator's narrative description of the incident and what action, if any, is to be taken to prevent further occurrences; and
- (o) Attachments consisting of:
 - 1. A copy of the fire report of the local fire department, if applicable and
 - 2. Photographs, if damage was extensive.

ST - N0303 - Copies of Fire Reports to AHCA - 10 days

Title Copies of Fire Reports to AHCA - 10 days

Rule 59A-4.130(4), F.A.C.

Type Rule

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Regulation Definition

Interpretive Guideline

59A-4.130(4)

Within ten days of receipt, the facility shall forward to the appropriate Area Office of the AHCA a copy of all reports of fire safety inspections made by local fire authorities.

ST - N0400 - Clinical Laboratory Standards

Title Clinical Laboratory Standards

Rule 400.0625(1), F.S.

Type Rule

Regulation Definition

Interpretive Guideline

400.0625 (1)

Each nursing home, as a requirement for issuance or renewal of its license, shall require that all clinical laboratory tests performed for the nursing home be performed by a clinical laboratory licensed under the provisions of chapter 483, except for such self-testing procedures as are approved by the agency by rule. Results of clinical laboratory tests performed prior to admission which meet the minimum standards provided in s. 483.181(3) shall be accepted in lieu of routine examinations required upon admission and clinical laboratory tests which may be ordered by a physician for residents of the nursing home.

ST - N0401 - Xray Standards

Title Xray Standards

Rule 400.0625(2), F.S.

Type Standard

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Regulation Definition

400.0625(2)

Each nursing home, as a requirement for issuance or renewal of its license, shall establish minimum standards for acceptance of results of diagnostic X rays performed by or for the nursing home. Such minimum standards shall require licensure or registration of the source of ionizing radiation under the provisions of chapter 404. Diagnostic X-ray results which meet the minimum standards shall be accepted in lieu of routine examinations required upon admission and in lieu of diagnostic X rays which may be ordered by a physician for residents of the nursing home.

Interpretive Guideline

ST - N0402 - Provide Resident Access to Services

Title Provide Resident Access to Services

Rule 400.141(5), F.S.

Type Rule

Regulation Definition

400.141

Every licensed facility shall comply with all applicable standards and rules of the agency and shall:

(5) Provide for the access of the facility residents to dental and other health-related services, recreational services, rehabilitative services, and social work services appropriate to their needs and conditions and not directly furnished by the licensee. when a geriatric outpatient nurse clinic is conducted in accordance with rules adopted by the agency, outpatients attending such clinic shall not be counted as part of the general resident population of the nursing home facility, nor

Interpretive Guideline

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shall the nursing staff of thee geriatric outpatient clinic be counted as part of the nursing staff of the facility, until the outpatient clinic load exceeds 15 a day.

ST - N0403 - Respite, Adult Day Care Conditions

Title Respite, Adult Day Care Conditions

Rule 400.141(6), F.S.

Type Rule

Regulation Definition

Interpretive Guideline

400.141

Every licensed facility shall comply with all applicable standards and rules of the agency and shall:

(6) Be allowed and encouraged by the agency to provide other needed services under certain conditions. If the facility has a standard licensure status, and has had no class I or class II deficiencies during the past 2 years or has been awarded a Gold Seal under the program established in s. 400.235, it may be encouraged by the agency to provide services, including, but not limited to, respite and adult day services, which enable individuals to move in and out of the facility. A facility is not subject to any additional licensure requirements for providing these services. Respite care may be offered to persons in need of short-term or temporary nursing home services. Respite care must be provided in accordance with this part and rules adopted by the agency. However, the agency shall, by rule, adopt modified requirements for resident assessment, resident care plans, resident contracts, physician orders, and other provisions, as appropriate, for short-term or temporary nursing home services. The agency shall allow for shared programming and staff in a facility which meets minimum standards and offers services pursuant to this subsection, but, if the facility is cited for deficiencies in patient care, may

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require additional staff and programs appropriate to the needs of service recipients. A person who receives respite care may not be counted as a resident of the facility for purposes of the facility's licensed capacity unless that person receives 24-hour respite care. A person receiving either respite care for 24 hours or longer or adult day services must be included when calculating minimum staffing for the facility. Any costs and revenues generated by a nursing home facility from nonresidential programs or services shall be excluded from the calculations of Medicaid per diems for nursing home institutional care reimbursement.

ST - N0405 - Shared Programming and Staff

Title Shared Programming and Staff

Rule 400.141(7), F.S.

Type Rule

Regulation Definition

Interpretive Guideline

400.141

Every licensed facility shall comply with all applicable standards and rules of the agency and shall:

(7) If the facility has a standard licensure status or is a Gold Seal facility, exceeds the minimum required hours of licensed nursing and certified nursing assistant direct care per resident per day, and is part of a continuing care facility licensed under Chapter 651 or a retirement community that offers other services pursuant to part III of this chapter, or part I or part III of chapter 429 on a single campus be allowed to share programming and staff. At the time of inspection and in the semiannual report required pursuant to subsection (15), a continuing care facility or, a retirement community that uses this option must demonstrate through staffing records that minimum staffing requirements for the facility were met.

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ST - N0407 - Dietary Services

Title Dietary Services

Rule 400.141(9), F.S.

Type Rule

Regulation Definition

Interpretive Guideline

400.141

Also see N0080 - N0083

Every licensed facility shall comply with all applicable standards and rules of the agency and shall:

(9) If the licensee furnishes food service, provide a wholesome and nourishing diet sufficient to meet generally accepted standards of proper nutrition for its residents and provide such therapeutic diets as may be prescribed by attending physicians. In making rules to implement this subsection, the agency shall be guided by standards recommended by nationally recognized professional groups and associations with knowledge of dietetics.

ST - N0410 - Share Personnel Records with Other Facilities

Title Share Personnel Records with Other Facilities

Rule 400.141(12), F.S.

Type Rule

Regulation Definition

Interpretive Guideline

400.141

Every licensed facility shall comply with all applicable standards and rules of the agency and shall:

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(12) Furnish copies of personnel records for employees affiliated with such facility, to any other facility licensed by this state requesting this information pursuant to this part. Such information contained in the records may include, but is not limited to, disciplinary matters and any reason for termination. Any facility releasing such records pursuant to this part shall be considered to be acting in good faith and may not be held liable for information contained in such records, absent a showing that the facility maliciously falsified such records.

ST - N0411 - Community Pharmacy/ Repackaging

Title Community Pharmacy/ Repackaging

Rule 400.141(4), F.S.

Type Rule

Regulation Definition

Interpretive Guideline

400.141

Every licensed facility shall comply with all applicable standards and rules of the agency and shall:

(4) Provide for resident use of a community pharmacy as specified in s. 400.022(1)(q). Any other law to the contrary notwithstanding, a registered pharmacist licensed in Florida, that is under contract with a facility licensed under this chapter, shall repackage a nursing facility resident's bulk prescription medication which has been packaged by another pharmacist licensed in any state in the United States into a unit dose system compatible with the system used by the nursing facility, if the pharmacist is requested to offer such service. To be eligible for repackaging, a resident or the resident's spouse must receive prescription medication benefits provided through a former employer as part of his or her retirement benefits a qualified pension plan as specified in s. 4972 of the

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Internal Revenue Code, a federal retirement program as specified under 5 C.F.R. s. 831, or a long-term care policy as defined in s. 627.9404(1). A pharmacist who correctly repackages and relabels the medication and the nursing facility which correctly administers such repackaged medication under the provisions of this subsection shall not be held liable in any civil or administrative action arising from the repackaging. In order to be eligible for the repackaging, a nursing facility resident for whom the medication is to be repackaged shall sign an informed consent form provided by the facility which includes an explanation of the repackaging process and which notifies the resident of the immunities from liability provided herein. A pharmacist who repackages and relabels prescription medications, as authorized under this subsection, may charge a reasonable fee for costs resulting from the implementation of this provision.

ST - N0412 - Immunization Requirements

Title Immunization Requirements

Rule 400.141, F.S.

Type Rule

Regulation Definition

Interpretive Guideline

400.141

Every licensed facility shall comply with all applicable standards and rules of the agency and shall:

(22) Before November 30 of each year, subject to the availability of an adequate supply of the necessary vaccine, provide for immunizations against influenza viruses to all its consenting residents in accordance with the recommendations of the U.S. Centers for Disease Control and Prevention, subject to exemptions for medical contraindications and religious or personal beliefs. Subject to these exemptions, any

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consenting person who becomes a resident of the facility after November 30 but before March 31 of the following year must be immunized within 5 working days after becoming a resident. Immunization shall not be provided to any resident who provides documentation that he or she has been immunized as required by this subsection. This subsection does not prohibit a resident from receiving the immunization from his or her personal physician if he or she so chooses. A resident who chooses to receive the immunization from his or her personal physician shall provide proof of immunization to the facility.

(23) Assess all residents for eligibility for pneumococcal polysaccharide vaccination (PPV) and vaccinate residents when indicated within 60 days after the effective date of this act in accordance with the recommendations of the U.S. Centers for Disease Control and Prevention, subject to exemptions for medical contraindications and religious or personal beliefs. Residents admitted after the effective date of this act shall be assessed within 5 working days of admission and, when indicated, vaccinated within 60 days in accordance with the recommendations of the United States Centers for Disease Control and Prevention, subject to exemptions for medical contradictions and religious or personal beliefs. Immunization shall not be provided to any resident who provides documentation that he or she has been immunized as required by this subsection. This subsection does not prohibit a resident from receiving the immunization from his or her personal physician if he or she so chooses. A resident who chooses to receive the immunization from his or her personal physician shall provide proof of immunization to the facility. The agency may adopt and enforce any rules necessary to comply with or implement this subsection.

(24) Annually encourage and promote to its employees the

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benefits associated with immunizations against influenza viruses in accordance with the recommendations of the U.S. Centers for Disease Control and Prevention. The agency may adopt and enforce any rules necessary to comply with or implement this subsection.

ST - N0413 - Management Company Change Reported

Title Management Company Change Reported

Rule 400.141(14), F.S.

Type Rule

Regulation Definition

Interpretive Guideline

400.141

Every licensed facility shall comply with all applicable standards and rules of the agency and shall:

(14) Submit to the agency the information specified in s. 400.071(2)(e) for a management company within 30 days after the effective date of the management agreement.

ST - N0414 - Staffing Report to AHCA

Title Staffing Report to AHCA

Rule 400.141(15), F.S.

Type Rule

Regulation Definition

Interpretive Guideline

400.141

Every licensed facility shall comply with all applicable standards and rules of the agency and shall:

AHCA will provide format and timeframes for reporting.

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(15) Submit semiannually to the agency, or more frequently if requested by the agency, information regarding facility staff-to-resident ratios, staff turnover, and staff stability, including information regarding certified nursing assistants, licensed nurses, the director of nursing, and the facility administrator. For purposes of this reporting:

(a) Staff-to-resident ratios must be reported in the categories specified in s. 400.23(3)(a) and applicable rules. The ratio must be reported as an average for the most recent calendar quarter.

(b) Staff turnover must be reported for the most recent 12-month period ending on the last workday of the most recent calendar quarter prior to the date the information is submitted. The turnover rate must be computed quarterly, with the annual rate being the cumulative sum of the quarterly rates. the turnover rate is the total number of terminations or separations experienced during the quarter, excluding any employee terminated during a probationary period of 3 months or less, divided by the total number of staff employed at the end of the period for which the rate is computed, and expressed as a percentage.

(c) The formula for determining staff stability is the total number of employees that have been employed for more than 12 months, divided by the total number of employees employed at the end of the most recent calendar quarter, and expressed as a percentage.

ST - N0415 - Itemized Bill for Resident

Title Itemized Bill for Resident

Rule 400.165(1), F.S.

Type Rule

Regulation Definition

400.165

Interpretive Guideline

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(1) Within 7 days following discharge or release from a nursing home, or within 7 days after the earliest date at which the cost of all goods or services provided on behalf of the resident are billed to the facility, the nursing home shall submit to the resident, or to his or her survivor or legal guardian, an itemized statement detailing in language comprehensible to an ordinary layperson the specific nature of charges or expenses incurred by the resident.

ST - N0418 - Vacant Bed Reporting - Monthly

Title Vacant Bed Reporting - Monthly

Rule 400.141(16), F.S.

Type Condition

Regulation Definition

400.141

Every licensed facility shall comply with all applicable standards and rules of the agency and shall:

(16) Report monthly the number of vacant beds in the facility which are available for resident occupancy on the day the information is reported.

Interpretive Guideline

Modified 1/1/07

Facilities must report by the 10th of each month to the Agency's Central Office- format provided by AHCA.

ST - N0420 - Dementia/ Cog Impairment Refer for Eval

Title Dementia/ Cog Impairment Refer for Eval

Rule 400.141(17), F.S.

Type Rule

Regulation Definition

400.141

Review and compare Minimum Data Set assessments, Section B, Cognitive Patterns; Section C6, Ability to Understand Others to determine if a change has occurred in resident cognition. Review other areas of the Minimum

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Every licensed facility shall comply with all applicable standards and rules of the agency and shall:

(17) Notify a licensed physician when a resident exhibits signs of dementia or cognitive impairment or has a change of condition in order to rule out the presence of an underlying physiological condition that may be contributing to such dementia or impairment. The notification must occur within 30 days after the acknowledgement of such signs by facility staff. If an underlying condition is determined to exist, the facility shall arrange, with the appropriate health care provider, the necessary care and services to treat the condition.

Data Set assessments, according to page #2, Section D, of the blue Resident Review Worksheet, to determine if the facility's assessment represented a significant change in resident condition in other areas of the Minimum Data Set.

Cognitive Impairment/Dementia is a significant decline if the resident's: Section B2, Memory Recall changed from a "0" (not a trigger for Cognitive Loss/Dementia) to a "1" (which is a trigger for Cognitive/Loss Dementia), and/or Section B4, Cognitive Skills For Daily Decision-Making, changed from a "0" or "1", then declined to a, "2" or "3", and/or Ability to Understand Others (Section C6), changed from a "0" then declined to a "1", "2", or "3". If a decline in the resident's cognition has occurred, more than likely, there is another decline in the resident's condition, i.e., ADL decline, (especially locomotion), continence, mood, behavior, communication, vision, activity pattern, medication, dehydration, weight loss, etc. Underlying clinical conditions may also lead to cognitive impairment/dementia, such as, fecal impaction, constipation, diarrhea, pain, Congestive Heart Failure, Urinary Tract Infection, etc.

NOTE: Cognitive Pattern is defined as the resident's ability to problem solve, remember, and be aware of and respond to safety hazards.

Interview the resident (if appropriate), staff, and/or family to determine if cognitive impairment is of recent onset. If the Minimum Data Set assessments and/or medical record do not reflect a cognitive decline yet interview and observation does, review federal regulation for inaccurate assessment (F278).

Did the facility document the initial identification of a significant change in condition in terms of the resident's clinical status in the progress notes?

Did the facility complete a comprehensive Minimum Data Set assessment after determining a significant change in resident condition occurred?

Does the comprehensive assessment include clinical decision making for the triggered areas that assess the causal and risk factors for the decline in cognition?

Does the clinical decision making represent referrals to Health Care Professionals for further assessment of the causal factors indicated with the resident's change in condition?

Was the physician notified of the resident's decline in cognition and/or other change in condition along with recommendations of referral(s) to other health care professionals within 30 days from the identification of the onset of signs/symptoms of a change in condition?

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Did the facility document the notification of the physician along with the results of that notification in the medical record?

Does the facility have a written policy relating to methods of physician notification and the expected timeframes of facility notification and physician response?

Are recommendations from health care professionals communicated to the physician in a timely manner as to not delay treatment interventions?

Is there documentation, by facility staff in the medical record, as to why a physician did not want to follow a health care professional's recommendations for intervention and/or treatment?

The review of resident Cognitive Loss/Dementia should be completed for every sampled resident.

Also see Federal regulation 42 CFR 483.10(b)(11); F157.

**Reference: Minimum Data Set Version 2.0, Cognitive Loss/Dementia, RAP Key.

ST - N0422 - Report Bankruptcy/ Re-org/ Transfer Assets

Title Report Bankruptcy/ Re-org/ Transfer Assets

Rule 400.141(19), F.S.

Type Rule

Regulation Definition

Interpretive Guideline

400.141

Every licensed facility shall comply with all applicable standards and rules of the agency and shall:

(19) Report to the agency any filing for bankruptcy protection by the facility or its parent corporation, divestiture or spin-off of its assets, or corporate reorganization within 30 days after the completion of such activity.

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ST - N0424 - Liability Insurance Required

Title Liability Insurance Required

Rule 400.141(20), F.S.

Type Rule

Regulation Definition

400.141

Every licensed facility shall comply with all applicable standards and rules of the agency and shall:

(20) Maintain liability insurance coverage that is in force at all times.

Interpretive Guideline

Allows exceptions to the general and professional liability insurance coverage by a state-designated teaching nursing home and its affiliated assisted living facility. The current procedure requires that the teaching nursing home and its affiliated assisted living facility to show proof of financial responsibility establishing an escrow account in a minimum amount of \$750,000 or the issuance of an unexpired, irrevocable, nontransferable and nonassignable letter of credit.

ST - N0426 - Charting A D Ls

Title Charting A D Ls

Rule 400.141(21), F.S.

Type Rule

Regulation Definition

400.141

Every licensed facility shall comply with all applicable standards and rules of the agency and shall:

(21) Maintain in the medical record for each resident a daily chart of certified nursing assistant services provided to the resident. The certified nursing assistant who is caring for the resident must complete this record by the end of his or her shift. This record must indicate assistance with activities of daily living, assistance with eating, and assistance with

Interpretive Guideline

Facilities must:

1) Identify residents at nutritional risk and risk of dehydration; 2) Develop a plan of care to prevent a decline in nutritional status and/or hydration; 3) Implement interventions/approaches from the plan; 4) Evaluate the effectiveness of the interventions/approaches; 5) Determine and provide necessary services for resident ADLs. These 5 facility requirements are reviewed in separate components of the survey process. This regulation (s. 400.141(21), F.S.) and the survey review of this regulation should focus on the charting of ADLs by the CNA.

Review the facility's written policy and procedure to determine the method and system the facility uses for CNAs to chart, daily, the services provided, and the offering of nutrition and hydration to the resident and the incorporation of

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drinking, and must record each offering of nutrition and hydration for those residents whose plan of care or assessment indicates a risk for malnutrition or dehydration.

this documentation into the medical record. This policy should include: who in the facility is responsible for reviewing information, the frequency of the review of the daily charting, to ascertain a decline in the consumption of nutrition and fluids.

Review the most recent comprehensive (full) Minimum Data Set for EACH sampled resident in Phase I and Phase II of the survey process to determine if "nutritional status" (12), or "dehydration/fluid maintenance" (14) triggered in the assessment. Compare this full assessment to other assessments as described on page 2, Section D, of the blue Resident Review Worksheet. If either "nutritional status" and/or "dehydration/fluid maintenance" triggered with the full assessment or any subsequent assessment, then the facility MUST record each offering of nutrition and hydration for the resident.

During the review of the Care Plan, determine what type of services for each of the ADLs the CNAs need to provide for the resident, i.e., supervision, limited assistance, extensive assistance, and/or total care.

Verify that the CNA's daily charting of ADL services reflects the type of assistance the resident requires according to the facility's assessment.

Review the resident's plan of care for the "nutritional status" and/or "dehydration/fluid maintenance" approaches the facility developed as interventions to implement for the resident's nutrition and dehydration risk. Ascertain that the interventions were implemented by observation, interview and documentation by the CNA on the facility's CNA daily record.

Verify that the offering of nutrition and hydration by CNAs includes the assistance the resident needs to consume the sustenance.

ST - N0428 - AHCA Information Poster Required

Title AHCA Information Poster Required

Rule 400.141(13), F.S.

Type Rule

Regulation Definition

400.141

Every licensed facility shall comply with all applicable standards and rules of the agency and shall:

Interpretive Guideline

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(13) Publicly display a poster provided by the agency containing the names, addresses, and telephone numbers for the state's abuse hotline, the State Long-Term Care Ombudsman, the Agency for Health Care Administration consumer hotline, the Advocacy Center for Persons with Disabilities, the Florida Statewide Advocacy Council, and the Medicaid Fraud Control Unit, with a clear description of the assistance to be expected from each.

ST - N0430 - Survey Results Posted

Title Survey Results Posted

Rule 400.191(5)(a)1., F.S.

Type Rule

Regulation Definition

400.191

(5) Every nursing home facility licensee shall:

(a) Post, in a sufficient number of prominent positions in the nursing home so as to be accessible to all residents and to the general public:

1. A concise summary of the last inspection report pertaining to the nursing home and issued by the agency, with references to the page numbers of the full reports, noting any deficiencies found by the agency and the actions taken by the licensee to rectify such deficiencies and indicating in such summaries where the full reports may be inspected in the nursing home.

Interpretive Guideline

During tour of the facility, verify that the most recent Statement of Deficiencies (CMS 2567 and/or State Form and revisit report or CMS 2567B) or a concise summary of the most recent Statement of Deficiencies as outlined in the regulation is posted in the facility.

The "last inspection report" means the report from the most recent standard survey and any subsequent extended surveys and any deficiencies resulting from any subsequent complaint investigations(s).

Check that the reports are posted in more than one location that is accessible to residents. This is to ensure that all residents, families, visitors and the general public have access to the reports without having to ask a staff person for them.

If the facility has a locked unit or an area of the facility with a separate entrance, check to see that the reports are posted in these locations.

Also see 400.022(1)(g), F.S., N0191 for state regulations regarding residents rights to examine the results of the most recent facility inspection and plan of correction.

Federal regulations:

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Refer to CFR 483.10(g)(1)-(2), F167

ST - N0433 - Nursing Home Guide Posted

Title Nursing Home Guide Posted

Rule 400.191(5)(a)2., F.S.

Type Rule

Regulation Definition

Interpretive Guideline

400.191

Effective 2/15/07

(5) Every nursing home facility licensee shall:

During the tour, verify that the facility has posted all the pages listing the facility from the most recent version of the Florida Nursing Home Guide.

(a) Post, in a sufficient number of prominent positions in the nursing home so as to be accessible to all residents and to the general public:

Check that the reports are posted in more than one location that is accessible to residents. This is to ensure that all residents, families, visitors and the general public have access to the reports without having to ask a staff person for them.

2. A copy of all the pages that list the facility in the most recent version of the Nursing Home Guide.

If the facility has a locked unit or an area of the facility with a separate entrance, check to see that the reports are posted in these locations.

ST - N0500 - Discharge/ Transfer Requirements

Title Discharge/ Transfer Requirements

Rule 400.0255(1)(2), F.S.

Type Rule

Regulation Definition

Interpretive Guideline

400.0255

(1) As used in this section, the term:

DISCHARGES:

(a) "Discharge" means to move a resident to a noninstitutional setting when the releasing facility ceases to be responsible for

Interview resident or former resident, the resident's legal guardian or representative to determine the reason for the discharge.

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the resident's care.

(b) "Transfer" means to move a resident from the facility to another legally responsible institutional setting.

(2) Each facility licensed under this part must comply with subsection (9) and s. 400.022(1)(p) when deciding to discharge or transfer a resident.

59A-4.106(1)(f)

All resident transfers and discharges shall be in accordance with the facility's policies and procedures, provisions of s. 400.022, F.S. and s. 400.0255, F.S., this rule, and other applicable state and federal laws. The Department of Children and Family Services will assist in the arrangement for appropriate continued care, when requested.

Also interview doctor, if necessary, to determine why the resident was discharged.

Probes:

·Ask the resident, guardian or representative if they asked for the resident to be discharged from the facility.

·Ask doctor, and /or facility staff members, why the resident was discharged.

·Both the Denial Notice from Medicare and the Transfer/Discharge Notices must be given when the resident is coming off Medicare Part A and is going home OR staying in the facility for long term care.

Review sample resident records and discharge summaries to determine the circumstances of the discharge. Be sensitive to the reason for discharge. It is unacceptable for a determination that the resident source of payment or funds were expiring.

TRANSFERS:

Follow the guidance for All-States Letters 23-92 and 92-92 to determine if the Transfer/Discharge was appropriate, whether it is a simple room change, or a transfer or discharge. If none of the six reasons existed, the resident may not be moved. If however, there is evidence in the clinical record that the resident had been in a certain room for sometime, and wants to return there, this would be a resident-initiated transfer, would be acceptable, and it would be only a room change.

·Review comprehensive resident record reviews to determine if the resident had a room transfer since admission. This is part of Demand Billing Rights (Denial Notices); refer to P-77-79, of the SOM. It is a related issue to Demand Billing, but different, as this applies to Transfer/Discharge rights, and the demand billing rights apply when residents disagree to coming off of Medicare Part A, and want their bills submitted to the Medicare Intermediary to determine if they can have further Medicare coverage. (a Demand Bill)

·Review any sampled resident in Phase I, that was identified on the facility's Roster/Sample Matrix, under Resident Characteristics for "Admission/Transfer/Discharge", any room transfer since admission.

·Review room transfers of residents that indicated that they had a room transfer during an individual resident interview.

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·Note what the resident's skilled service was when the resident was on Medicare Part A (PT, OT, ST, or SN) and the date skilled services stopped.

To determine if the room transfer was facility initiated:

·Note the room number that the resident occupied prior to the room transfer and the room number after the transfer.

·Note the resident's payor source while in the original room and the resident's payor source when, or soon after transfer occurred.

·Review the facility's Bed Reconciliation form that was completed during the survey or complaint investigation.

·Determine if the resident was in a dually certified (Medicare and/or Medicaid) bed, prior to the transfer, then was transferred to a Medicaid only bed at the end of the resident's Medicare payment source.

·If the resident was transferred, because Medicare payment had expired, from a dually certified bed into a Medicaid only bed, and there was no reason for this transfer, other than the change in payment source, then the transfer was initiated by the facility.

·Interview the resident, family, or responsible party to determine if the facility had approached the individual with the transfer or if the individual had requested the transfer.

·Was there a physician's order for the transfer with explanation of the medical benefit for the resident in relation to the room transfer?

·If the transfer occurred at the facility's request, (coming off Medicare Part A is a facility-initiated transfer), determine if the resident adjusted to their new surroundings or experienced a decline in cognition, i.e. confusion, loss of direction, withdrawal or decline in socialization, increase or new onset of behaviors (combativeness, resistance to care, physically abusive to staff, depression, etc.).

·Through interview and review of the transfer form, determine if the resident had a right to decline the room transfer.

Note: A change in payor source (i.e. coming off of Medicare Part A) is NOT an appropriate reason to transfer a resident from one room to another.

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Note: 400.0255(17) states, "The provisions of this section apply to transfers or discharges that are initiated by the nursing home facility, and not by the resident or by the resident's physician or legal guardian or representative." However, federal law requires notice and rights for any involuntary transfer or discharge.

Also see 400.022(1)(p), (t), (u), (v), F.S.

Also see Federal regulations 42 CFR 483.12.

F201--Involuntary transfer/Discharge. Note the preamble to F201 on pp32.

F202--Physician must document the medical reason for the transfer/discharge.

F203-Notice requirements, timing, all requirements included with appeal rights, filled out in full etc. This is included during closed record reviews.

F204---Orientation for transfer/discharge; was the resident/family part of the plan, and determine if discharge planning was appropriate, and documented.

ST - N0501 - Discharge/ Transfer Notice Signatures

Title Discharge/ Transfer Notice Signatures

Rule 400.0255(3), F.S.

Type Rule

Regulation Definition

400.0255 (3)

When a discharge or transfer is initiated by the nursing home, the nursing home administrator employed by the nursing home that is discharging or transferring the resident, or an individual employed by the nursing home who is designated by the nursing home administrator to act on behalf of the administration, must sign the notice of discharge or transfer. Any notice indicating a medical reason for transfer or discharge must either be signed by the resident's attending physician or the medical director of the facility, or include an attached written order for the discharge or transfer. The notice or the order must be signed by the resident's physician, medical director, treating physician, nurse practitioner, or physician assistant.

Interpretive Guideline

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ST - N0502 - Notify AHCA of DC/ Transfer Physical Plant

Title Notify AHCA of DC/ Transfer Physical Plant

Rule 400.0255(4), F.S.

Type Rule

Regulation Definition

Interpretive Guideline

400.0255

(4)(a) Each facility must notify the agency of any proposed discharge or transfer of a resident when such discharge or transfer is necessitated by changes in the physical plant of the facility that make the facility unsafe for the resident.

ST - N0503 - Resident May Challenge Discharge/ Transfer

Title Resident May Challenge Discharge/ Transfer

Rule 400.0255(5), F.S.

Type Rule

Regulation Definition

Interpretive Guideline

400.0255

(5) A resident of any Medicaid or Medicare certified facility may challenge a decision by the facility to discharge or transfer the resident.

ST - N0504 - Bed Reservation Refund

Title Bed Reservation Refund

Rule 400.0255(6), F.S.

Type Rule

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Interpretive Guideline

400.0255

(6) A facility that has been reimbursed for reserving a bed and, for reasons other than those permitted under this section, refuses to readmit a resident within the prescribed timeframe shall refund the bed reservation payment.

ST - N0505 - 30- Day Notice Required

Title 30- Day Notice Required

Rule 400.0255(7), F.S.

Type Rule

Regulation Definition

Interpretive Guideline

400.0255

(7) At least 30 days prior to any proposed transfer or discharge, a facility must provide advance notice of the proposed transfer or discharge to the resident and, if known, to a family member or the resident's legal guardian or representative, except, in the following circumstances, the facility shall give notice as soon as practicable before the transfer or discharge:

- (a) The transfer or discharge is necessary for the resident's welfare and the resident's needs cannot be met in the facility, and the circumstances are documented in the resident's medical records by the resident's physician; or
- (b) The health or safety of other residents or facility employees would be endangered, and the circumstances are documented in the resident's medical records by the resident's physician or the medical director if the resident's physician is not available.

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ST - N0506 - Discharge/ Transfer Notice

Title Discharge/ Transfer Notice

Rule 400.0255(8), F.S.

Type Rule

Regulation Definition

Interpretive Guideline

400.0255

(8) The notice required by subsection (7) must be in writing and must contain all information required by state and federal law, rules, or regulations applicable to Medicaid or Medicare cases. The agency shall develop a standard document to be used by all facilities licensed under this part for purposes of notifying residents of a discharge or transfer. Such document must include a means for a resident to request the local long-term care ombudsman council to review the notice and request information about or assistance with initiating a fair hearing with the department's Office of Appeals Hearings. In addition to any other pertinent information included, the form shall specify the reason allowed under federal or state law that the resident is being discharged or transferred, with an explanation to support this action. Further, the form shall state the effective date of the discharge or transfer and the location to which the resident is being discharged or transferred. The form shall clearly describe the resident's appeal rights and the procedures for filing an appeal, including the right to request the local ombudsman council to review the notice of discharge or transfer. A copy of the notice must be placed in the resident's clinical record, and a copy must be transmitted to the resident's legal guardian or representative and to the local ombudsman council within 5 business days after signature by the resident or resident designee.

Comment: See AHCA Forms 3120-0002, 3120-0003, 3120-0004.

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ST - N0507 - Notify Ombudsman if Requested

Title Notify Ombudsman if Requested

Rule 400.0255(9), F.S.

Type Rule

Regulation Definition

Interpretive Guideline

400.0255

(9) A resident may request that the local ombudsman council review any notice of discharge or transfer given to the resident. When requested by a resident to review a notice of discharge or transfer, the local ombudsman council shall do so within 7 days after receipt of the request. The nursing home administrator, or the administrator's designee, must forward the request for review contained in the notice to the local ombudsman council within 24 hours after such request is submitted. Failure to forward the request within 24 hours after the request is submitted shall toll the running of the 30-day advance notice period until the request has been forwarded.

ST - N0508 - Discharge/ Transfer Fair Hearing

Title Discharge/ Transfer Fair Hearing

Rule 400.0255(10), F.S.

Type Rule

Regulation Definition

Interpretive Guideline

400.0255

(10)(a) A resident is entitled to a fair hearing to challenge a facility's proposed transfer or discharge. The resident, or the resident's legal representative or designee, may request a

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hearing at any time within 90 days after the resident's receipt of the facility's notice of the proposed discharge or transfer.

(b) If a resident requests a hearing within 10 days after receiving the notice from the facility, the request shall stay the proposed transfer or discharge pending a hearing decision.

The facility may not take action, and the resident may remain in the facility, until the outcome of the initial fair hearing, which must be completed within 90 days after receipt of a request for a fair hearing.

(c) If the resident fails to request a hearing within 10 days after receipt of the facility notice of the proposed discharge or transfer, the facility may transfer or discharge the resident after 30 days from the date the resident received the notice.

ST - N0509 - Emergency Discharge/ Transfer

Title Emergency Discharge/ Transfer

Rule 400.0255(11), F.S.

Type Rule

Regulation Definition

400.0255

(11) Notwithstanding paragraph (10)(b), an emergency discharge or transfer may be implemented as necessary pursuant to state or federal law during the period of time after the notice is given and before the time a hearing decision is rendered. Notice of an emergency discharge or transfer to the resident, the resident's legal guardian or representative, and the local ombudsman council if requested pursuant to subsection (9) must be by telephone or in person. This notice shall be given before the transfer, if possible, or as soon thereafter as practicable. A local ombudsman council conducting a review under this subsection shall do so within 24 hours after receipt of the request. The resident's file must be documented to show who was contacted, whether the

Interpretive Guideline

Guidelines for Baker Act Discharges:

State statutes, Chapter 394.F.S., is to be followed to determine adherence to discharges specifically to psychiatric facilities. The revisions to the Florida Mental Health Act, Chapter 394,F.S., better known as the Baker Act, provide for enforcement authority for the Agency for Health Care Administration to take action against licensed providers found to be in violation of the act.

As provided in section 400.0255,F.S., notice of an emergency transfer of a nursing home resident must be given to the resident's guardian or representative by telephone or in person. This notice is required whether the transfer is voluntary or involuntary, and shall be given before the transfer or as soon thereafter as possible.

Procedures:

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contact was by telephone or in person, and the date and time of the contact. If the notice is not given in writing, written notice meeting the requirements of subsection (8) must be given the next working day.

During the survey, surveyors are to ask administrators for the files of all residents that have been discharged to a psychiatric facility since the last survey. Upon receipt of this information, the surveyor is to conduct a 100% sample of these files. If the administrator is unable to provide this information, the surveyor is to use the admit/discharge log to obtain the names of residents discharged to a psychiatric facility.

Guidelines for Voluntary Transfer:

Voluntary transfers to mental health facilities, facility must have evidence of a determination by mental health professional that resident is able to give advised consent. Guidelines for Involuntary Examination: Persons in nursing homes, shall only be removed for involuntary examination based on:

Professional certificate completed by a physician, clinical psychologist, psychiatric nurse or clinical social worker; or

Law enforcement officer's report. Procedures: Surveyors should review the records of residents who have been transferred from the facility for involuntary examination.

Ex-parte order, issued by a court, which states that the person appears to meet the criteria for involuntary examination; or

Professional certificate signed by a licensed mental health professional; or

Law enforcement officer's report which has been completed prior to the patient being transported to a receiving facility.

ST - N0510 - Ombudsman Assistance Discharge/ Transfer

Title Ombudsman Assistance Discharge/ Transfer

Rule 400.0255(12), F.S.

Type Rule

Regulation Definition

400.0255

(12) After receipt of any notice required under this section, the local ombudsman council may request a private informal

Interpretive Guideline

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conversation with a resident to whom the notice is directed, and, if known, a family member or the resident's legal guardian or designee, to ensure that the facility is proceeding with the discharge or transfer in accordance with the requirements of this section. If requested, the local ombudsman council shall assist the resident with filing an appeal of the proposed discharge or transfer.

ST - N0511 - Hearing Participation - Discharge/ Transfer

Title Hearing Participation - Discharge/ Transfer

Rule 400.0255(13), F.S.

Type Rule

Regulation Definition

Interpretive Guideline

400.0255

(13) The following persons must be present at all hearings authorized under this section:

- (a) The resident, or the resident's legal representative or designee.
- (b) The facility administrator, or the facility's legal representative or designee.

A representative of the local long-term care ombudsman council may be present at all hearings authorized by this section.

ST - N0512 - Hearing Information Confidential - D/C/Trans

Title Hearing Information Confidential - D/C/Trans

Rule 400.0255(14), F.S.

Type Rule

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Regulation Definition

Interpretive Guideline

400.0255

(14) In any hearing under this section, the following information concerning the parties shall be confidential and exempt from the provisions of s. 119.07(1):

- (a) Names and addresses.
- (b) Medical services provided.
- (c) Social and economic conditions or circumstances.
- (d) Evaluation of personal information.
- (e) Medical data, including diagnosis and past history of disease or disability.
- (f) Any information received verifying income eligibility and amount of medical assistance payments. Income information received from the Social Security Administration or the Internal Revenue Service must be safeguarded according to the requirements of the agency that furnished the data.

The exemption created by this subsection does not prohibit access to such information by a local long-term care ombudsman council upon request, by a reviewing court if such information is required to be part of the record upon subsequent review, or as specified in s. 24(a), Art. I of the State Constitution.

ST - N0513 - Readmission after Fair Hearings

Title Readmission after Fair Hearings

Rule 400.0255(15), F.S.

Type Rule

Regulation Definition

Interpretive Guideline

400.0255

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(15)(a) The department's Office of Appeals Hearings shall conduct hearings under this section. The office shall notify the facility of a resident's request for a hearing.

(b) The department shall, by rule, establish procedures to be used for fair hearings requested by residents. These procedures shall be equivalent to the procedures used for fair hearings for other Medicaid cases, chapter 10-2, part VI, Florida Administrative Code. The burden of proof must be clear and convincing evidence. A hearing decision must be rendered within 90 days after receipt of the request for hearing.

(c) If the hearing decision is favorable to the resident who has been transferred or discharged, the resident must be readmitted to the facility's first available bed.

(d) The decision of the hearing officer shall be final. Any aggrieved party may appeal the decision to the district court of appeal in the appellate district where the facility is located. Review procedures shall be conducted in accordance with the Florida Rules of Appellate Procedure.

ST - N0600 - C N A Qualifications

Title C N A Qualifications

Rule 400.211(1), F.S.

Type Rule

Regulation Definition

400.211

(1) To serve as a nursing assistant in any nursing home, a person must be certified as a nursing assistant under part II of chapter 464, unless the person is a registered nurse or practical nurse licensed in accordance with part I of chapter 464 or an applicant for such licensure who is permitted to practice nursing in accordance with rules adopted by the Board of

Interpretive Guideline

Procedure:

If surveyors have concerns regarding the care and services that are being provided by certified nursing assistants, they should review the personnel files to determine if the staff is properly certified.

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Nursing pursuant to part I of chapter 464.

ST - N0601 - Nursing Assistants Up to 4- Months

Title Nursing Assistants Up to 4- Months

Rule 400.211(2), F.S.

Type Rule

Regulation Definition

Interpretive Guideline

400.211

(2) The following categories of persons who are not certified as nursing assistants under part II of chapter 464 may be employed by a nursing facility for a period of 4 months:

- (a) Persons who are enrolled in, or have completed, a state-approved nursing assistant program;
- (b) Persons who have been positively verified as actively certified and on the registry in another state with no findings of abuse, neglect, or exploitation in that state; or
- (c) Persons who have preliminarily passed the state's certification exam. The certification requirement must be met within 4 months after initial employment as a nursing assistant in a licensed nursing facility.

ST - N0602 - C N A Employment History Required

Title C N A Employment History Required

Rule 400.211(3), F.S.

Type Rule

Regulation Definition

Interpretive Guideline

400.211

See N0620 background screening requirements

(3) Nursing homes shall require persons seeking employment

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as a certified nursing assistant to submit an employment history to the facility. The facility shall verify the employment history unless, through diligent efforts, such verification is not possible. There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, a former employer who reasonably and in good faith communicates his or her honest opinion about a former employee's job performance.

ST - N0603 - C N A Inservice & Evaluation

Title C N A Inservice & Evaluation

Rule 400.211(4), F.S.

Type Rule

Regulation Definition

400.211

(4) When employed by a nursing home facility for a 12-month period or longer, a nursing assistant, to maintain certification, shall submit to a performance review every 12 months and must receive regular inservice education based on the outcome of such reviews. The inservice training must:

(a) Be sufficient to ensure the continuing competence of nursing assistants and must meet the standard specified in s. 464.203(7);

(b) Include, at a minimum:

1. Techniques for assisting with eating and proper feeding;
2. Principles of adequate nutrition and hydration;
3. Techniques for assisting and responding to the cognitively impaired resident or the resident with difficult behaviors;
4. Techniques for caring for the resident at the end-of-life; and

5. Recognizing changes that place a resident at risk for pressure ulcers and falls; and

(c) Address areas of weakness as determined in nursing

Interpretive Guideline

Modified 3/19/07

If deficient care practices, or resident rights issues are identified during the survey, review as appropriate, the training received by nursing assistants in that corresponding subject area. How has inservice education addressed the problems?

Review personnel records for those employees selected to determine if performance reviews have been done on annual basis.

Was inservice education provided based on the outcome of the performance review? How has the facility addressed areas of weakness?

Does the facility have a written education plan that describes how it will provide inservice education to its staff?

Has the plan been reviewed annually by the quality assurance committee.

Does the staff education plan include at a minimum, the following areas:

- Prevention and control of infection;
- Fire prevention, life safety, and disaster preparedness;
- Accident prevention and safety awareness programs;

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assistant performance reviews and may address the special needs of residents as determined by the nursing home facility staff.

Costs associated with this training may not be reimbursed from additional Medicaid funding through interim rate adjustments.

Resident's rights;
Techniques for assisting with eating and proper feeding and principles of adequate nutrition and hydration;
Techniques for assisting and responding to the cognitively impaired resident or the resident with difficult behaviors.
Has the facility addressed how to recognize the signs and symptoms of dementia or how to recognize signs of cognitive decline?
Techniques for caring for the resident at the end-of-life;
Recognizing changes that put a resident at risk for developing pressure sores and falls;
Federal law, 42 CFR 483, Requirements for Long Term Care Facilities, September 26, 1991, which is incorporated by reference, and state rules and regulations, Chapter 400, Part II F.S.
The Florida "Right to Know," Chapter 442, F.S. 59A-4.106 (5) (c), F.A.C.
Address areas of weakness as determined in the nursing assistant performance review.

The adequacy of the education program is measured not only by documented hours, but also by demonstrated competency of the nursing assistants.

ST - N0620 - Background Screening Requirements

Title Background Screening Requirements

Rule 400.215, F.S.

Type Rule

Regulation Definition

400.215 Personnel screening requirement.

- (1) The agency shall require background screening as provided in chapter 435 for all employees or prospective employees of facilities licensed under this part who are expected to, or whose responsibilities may require them to:
- (a) Provide personal care or services to residents;
 - (b) Have access to resident living areas; or
 - (c) Have access to resident funds or other personal property.
- (2) Employers and employees shall comply with the requirements of s. 435.05.
- (a) Notwithstanding the provisions of s. 435.05(1), facilities must have in their possession evidence that level 1 screening

Interpretive Guideline

Modified 3/19/07

Request a list of all employees with hire dates and job positions. Only review employees hired on or after 10/1/1998. During each nursing home survey select 10 employees background screening files to verify compliance with Level I and/or Level II requirements.

The facility must not employ individuals who have been found guilty of abusing, neglecting or mistreating residents by a court of law or have a finding entered into the state nurses registry concerning the above. The facility must report any knowledge it has of actions by the court against an employee, which would indicate unfitness for service.

Ask the facility to provide evidence that pre-screening was done based on the regulatory requirement at 42CFR 483.13 (c). This includes attempting to get information from previous employers and doing level I and/or II background screening.

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has been completed before allowing an employee to begin working with patients as provided in subsection (1). All information necessary for conducting background screening using level 1 standards as specified in s. 435.03(1) shall be submitted by the nursing facility to the agency. Results of the background screening shall be provided by the agency to the requesting nursing facility.

(b) Employees qualified under the provisions of paragraph (a) who have not maintained continuous residency within the state for the 5 years immediately preceding the date of request for background screening must complete level 2 screening, as provided in chapter 435. Such employees may work in a conditional status up to 180 days pending the receipt of written findings evidencing the completion of level 2 screening. Level 2 screening shall not be required of employees or prospective employees who attest in writing under penalty of perjury that they meet the residency requirement. Completion of level 2 screening shall require the employee or prospective employee to furnish to the nursing facility a full set of fingerprints to enable a criminal background investigation to be conducted. The nursing facility shall submit the completed fingerprint card to the agency. The agency shall establish a record of the request in the database provided for in paragraph (c) and forward the request to the Department of Law Enforcement, which is authorized to submit the fingerprints to the Federal Bureau of Investigation for a national criminal history records check. The results of the national criminal history records check shall be returned to the agency, which shall maintain the results in the database provided for in paragraph (c). The agency shall notify the administrator of the requesting nursing facility or the administrator of any other facility licensed under chapter 393, chapter 394, chapter 395, chapter 397, or this chapter, as requested by such facility, as to whether or not the employee has qualified under level 1 or level 2 screening. An employee

All direct care staff must have a level I background screen prior to starting employment.

The financial officer, owner/administrator, and any direct care staff, that has not resided in the state for the past 5 consecutive years must have a level II background screen.

A level I background screen consists of employment history checks and a statewide criminal background check through the Florida Department of Law Enforcement (FDLE).

A level II background screen consists of employment history check, finger printing through the Federal Bureau of Investigation (FBI) and criminal background check through the FDLE.

Did the facility submit the information necessary for screening to the FDLE within 5 working days after receiving it? Such employees may work in a "conditional status" up to 180 days pending the receipt of written findings evidencing the completion of level II screening. Reference 435.05 (1)(a)(c).

The results of the background screen will determine if an individual is eligible or ineligible/disqualified from employment. See Chapter 435 employment screening or AHCA background screening information and forms for a list of disqualifying offences.

Procedure:

- (1) Review employment and personnel records of unlicensed direct care staff who have been newly hired or under contract within 4 month period preceding the survey and
 - (a) review for evidence that a background screening for criminal history has been conducted by the presence of a completed AHCA 3110-0002 and AHCA 3110-0003, or
 - (b) review for evidence of background screening results that have been electronically conveyed: and,
 - (1) Are recognizable as having originated from FDLE; or,
 - (2) That the electronic search includes the State of Florida.
 - (c) Review for evidence of valid certification.
 - (2) Review the employment or personnel records of certified nursing assistants that have been terminated because of criminal histories or evidence of adult abuse, neglect, exploitation, or exploitation of resident funds.
 - (a) Review facility policy for notification to the employee that the background screening conducted contains or does not contain disqualifying offenses.
 - (b) Review facility policy for identification of and notification to the employee with disqualifying offenses requiring exemption hearings?

Also see Federal regulations:

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or prospective employee who has qualified under level 2 screening and has maintained such continuous residency within the state shall not be required to complete a subsequent level 2 screening as a condition of employment at another facility.

(c) The agency shall establish and maintain a database of background screening information which shall include the results of both level 1 and level 2 screening. The Department of Law Enforcement shall timely provide to the agency, electronically, the results of each statewide screening for incorporation into the database. The agency shall, upon request from any facility, agency, or program required by or authorized by law to screen its employees or applicants, notify the administrator of the facility, agency, or program of the qualifying or disqualifying status of the employee or applicant named in the request.

(d) Applicants and employees shall be excluded from employment pursuant to s. 435.06.

(3) The applicant is responsible for paying the fees associated with obtaining the required screening. Payment for the screening shall be submitted to the agency. The agency shall establish a schedule of fees to cover the costs of level 1 and level 2 screening. Facilities may reimburse employees for these costs. The Department of Law Enforcement shall charge the agency for a level 1 or level 2 screening a rate sufficient to cover the costs of such screening pursuant to s. 943.053(3). The agency shall, as allowable, reimburse nursing facilities for the cost of conducting background screening as required by this section. This reimbursement will not be subject to any rate ceilings or payment targets in the Medicaid Reimbursement plan.

(4)(a) As provided in s. 435.07, the agency may grant an exemption from disqualification to an employee or prospective

Did the facility take appropriate actions in the areas of screening, reporting, protecting, investigating and taking appropriate actions? If not review F225.

Did the facility develop and implement written policies and procedures that prohibit mistreatment, neglect and abuse of residents? If not review F226.

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employee who is subject to this section and who has not received a professional license or certification from the Department of Health.

(b) As provided in s. 435.07, the appropriate regulatory board within the Department of Health, or that department itself when there is no board, may grant an exemption from disqualification to an employee or prospective employee who is subject to this section and who has received a professional license or certification from the Department of Health or a regulatory board within that department.

(5) Any provision of law to the contrary notwithstanding, persons who have been screened and qualified as required by this section and who have not been unemployed for more than 180 days thereafter, and who under penalty of perjury attest to not having been convicted of a disqualifying offense since the completion of such screening, shall not be required to be rescreened. An employer may obtain, pursuant to s. 435.10, written verification of qualifying screening results from the previous employer or other entity which caused such screening to be performed.

(6) The agency and the Department of Health shall have authority to adopt rules pursuant to the Administrative Procedure Act to implement this section.

(7) All employees shall comply with the requirements of this section by October 1, 1998. No current employee of a nursing facility as of the effective date of this act shall be required to submit to rescreening if the nursing facility has in its possession written evidence that the person has been screened and qualified according to level 1 standards as specified in s. 435.03(1). Any current employee who meets the level 1 requirement but does not meet the 5-year residency requirement as specified in this section must provide to the

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employing nursing facility written attestation under penalty of perjury that the employee has not been convicted of a disqualifying offense in another state or jurisdiction. All applicants hired on or after October 1, 1998, shall comply with the requirements of this section.

(8) There is no monetary or unemployment liability on the part of, and no cause of action for damages arising against an employer that, upon notice of a disqualifying offense listed under chapter 435 or an act of domestic violence, terminates the employee against whom the report was issued, whether or not the employee has filed for an exemption with the Department of Health or the Agency for Health Care Administration.

ST - N0700 - Abuse, Neglect & Exploitation Defined

Title Abuse, Neglect & Exploitation Defined

Rule 415.102, F.S.

Type Requirement

Regulation Definition

415.102

(1) "Abuse" means any willful act or threatened act by a caregiver that causes or is likely to cause significant impairment to a vulnerable adult's physical, mental, or emotional health. Abuse includes acts and omissions.

(7)(a) "Exploitation" means a person who:

1. Stands in a position of trust and confidence with a vulnerable adult and knowingly, by deception or intimidation, obtains or uses, or endeavors to obtain or use, a vulnerable adult's funds, assets, or property with the intent to temporarily or permanently deprive a vulnerable adult of the use, benefit, or possession of the funds, assets, or property for the benefit of someone other than the vulnerable adult; or

Interpretive Guideline

Guidelines:

These requirements specify the right of each resident to be free from abuse, corporal punishment, and involuntary seclusion, and the facility's responsibilities to prevent not only abuse, but also those practices and omissions, neglect and misappropriation of property.

The Florida Statute, 415.1034, F.S., is more specific and prescriptive than the federal guidelines. Persons observing or suspecting abuse are required by Florida Statute to report the incident immediately. Federal regulations, 42 CFR 483.13(c)(2)(3)(4), allow the facility to investigate the incident to determine if abuse, neglect, or mistreatment has occurred. There is no such allowance in state regulations. The surveyor will use the same element of assessment to determine if there is a deficient practice in the facility as if there is a reportable incident.

Procedures:

(1) The surveyor should identify the event or incident. This would be accomplished by observing the resident or

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2. Knows or should know that the vulnerable adult lacks the capacity to consent, and obtains or uses, or endeavors to obtain or use, the vulnerable adult's funds, assets, or property with the intent to temporarily or permanently deprive the vulnerable adult of the use, benefit, or possession of the funds, assets, or property for the benefit of someone other than the vulnerable adult.

(b) "Exploitation" may include, but is not limited to:

1. Breaches of fiduciary relationships, such as the misuse of a power of attorney or the abuse of guardianship duties, resulting in the unauthorized appropriation, sale, or transfer of property;

2. Unauthorized taking of personal assets;

3. Misappropriation, misuse, or transfer of moneys belonging to a vulnerable adult from a personal or joint account; or

4. Intentional or negligent failure to effectively use a vulnerable adult's income and assets for the necessities required for that person's support and maintenance.

(8) "Facility" means any location providing day or residential care or treatment for vulnerable adults. The term "facility" may include, but is not limited to, any hospital, state institution, nursing home, assisted living facility, adult family-care home, adult day care center, group home, or mental health treatment center.

(15) "Neglect" means the failure or omission on the part of the caregiver to provide the care, supervision, and services necessary to maintain the physical and mental health of the vulnerable adult, including, but not limited to, food, clothing, medicine, shelter, supervision, and medical services, that a prudent person would consider essential for the well-being of a vulnerable adult. The term "neglect" also means the failure of a caregiver to make a reasonable effort to protect a vulnerable adult from abuse, neglect, or exploitation by others. "Neglect" is repeated conduct or a single incident of carelessness which produces or could reasonably be expected to result in serious physical or psychological injury or a substantial risk of death.

receiving a report of an incident or event from a resident, family member or staff person.

(2) Assessment of event or incident - What were the circumstances surrounding the event or the incident? Ask the resident what happened. Ask the staff what happened. Ask the family or friends what happened. Check resident's record.

(3) Incidents may be resident to resident or staff to resident.

(4) Incidents that are reportable (intentional and/or non-accidental)

(a) Resident to resident if cause is lack of supervision

(b) Staff to resident if the following is present:

1. Problem in a facility that results in resident injury and facility staff was aware of problem and did not correct (faulty equipment).

2. Treatment omitted that resulted in resident harm (example: dressings not being changed and wound worsened).

3. Lack of supervision by staff of a resident that was assessed to need supervision and resident was injured as a result.

4. Residents at risk for falls with injuries who continues to fall without assessment and modifications of interventions.

5. Residents at risk for decubiti who do not receive appropriate care and develops decubitus.

6. Residents at risk for dehydration and is not adequately hydrated and has harm as a result.

7. Residents who have significant weight loss and interventions have not been implemented.

8. Residents that are injured and diagnosis and treatment was not timely.

9. Verbal abuse.

Also see N0204 - Resident Rights.

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ST - N0701 - Report Required- Abuse, Neglect, Exploitation

Title Report Required- Abuse, Neglect, Exploitation

Rule 415.1034, F.S.

Type Requirement

Regulation Definition

Interpretive Guideline

415.1034 Mandatory reporting of abuse, neglect, or exploitation of vulnerable adults; mandatory reports of death.-

Also see N0204, Resident Rights.

(1) MANDATORY REPORTING.--

(a) Any person, including, but not limited to, any:

1. Physician, osteopathic physician, medical examiner, chiropractic physician, nurse, paramedic, emergency medical technician, or hospital personnel engaged in the admission, examination, care, or treatment of vulnerable adults;
2. Health professional or mental health professional other than one listed in subparagraph 1.;
3. Practitioner who relies solely on spiritual means for healing;
4. Nursing home staff; assisted living facility staff; adult day care center staff; adult family-care home staff; social worker; or other professional adult care, residential, or institutional staff;
5. State, county, or municipal criminal justice employee or law enforcement officer;
6. An employee of the Department of Business and Professional Regulation conducting inspections of public lodging establishments under s. 509.032;
7. Florida advocacy council member or long-term care ombudsman council member; or
8. Bank, savings and loan, or credit union officer, trustee, or employee,

who knows, or has reasonable cause to suspect, that a

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vulnerable adult has been or is being abused, neglected, or exploited shall immediately report such knowledge or suspicion to the central abuse hotline.

(b) To the extent possible, a report made pursuant to paragraph (a) must contain, but need not be limited to, the following information:

1. Name, age, race, sex, physical description, and location of each victim alleged to have been abused, neglected, or exploited.
2. Names, addresses, and telephone numbers of the victim's family members.
3. Name, address, and telephone number of each alleged perpetrator.
4. Name, address, and telephone number of the caregiver of the victim, if different from the alleged perpetrator.
5. Name, address, and telephone number of the person reporting the alleged abuse, neglect, or exploitation.
6. Description of the physical or psychological injuries sustained.
7. Actions taken by the reporter, if any, such as notification of the criminal justice agency.
8. Any other information available to the reporting person which may establish the cause of abuse, neglect, or exploitation that occurred or is occurring.

(2) MANDATORY REPORTS OF DEATH.--Any person who is required to investigate reports of abuse, neglect, or exploitation and who has reasonable cause to suspect that a vulnerable adult died as a result of abuse, neglect, or exploitation shall immediately report the suspicion to the appropriate medical examiner, to the appropriate criminal justice agency, and to the department, notwithstanding the existence of a death certificate signed by a practicing physician. The medical examiner shall accept the report for investigation pursuant to s.406.11 and shall report the findings of the investigation, in writing, to the appropriate local

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criminal justice agency, the appropriate state attorney, and the department. Autopsy reports maintained by the medical examiner are not subject to the confidentiality requirements provided for in s. 415.107.

ST - N0900 - Risk Mgmt & Q A Plan Required in Application

Title Risk Mgmt & Q A Plan Required in Application

Rule 400.071(12), F.S.

Type Rule

Regulation Definition

400.071(10)

As a condition of licensure, each facility must establish and submit with its application a plan for quality assurance and for conducting risk management.

Interpretive Guideline

Requested by Central Office (Tallahassee) as a requirement of application for licensure.

ST - N0901 - Risk Mgmt & Q A Program Required

Title Risk Mgmt & Q A Program Required

Rule 400.147(1), F.S.

Type Rule

Regulation Definition

400.147(1)

Every facility shall, as part of its administrative functions, establish an internal risk management and quality assurance program, the purpose of which is to assess resident care practices; review facility quality indicators, facility incident reports, deficiencies cited by the agency, and resident grievances; and develop plans of action to correct and respond quickly to identified quality deficiencies. The program must

Interpretive Guideline

Modified 3/19/07

Surveyors may cite if the facility does not have a current QA and Risk Management Plan (Also see N0900).

Are all of the components present:

- Assess resident care practices
- Review facility Quality Indicators

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include:

·Review facility incident reports

·Deficiencies cited by the agency

·Resident grievances

·Develop plans of action to correct and respond quickly to identified quality deficiencies.

Consider citing this, esp. on follow-up visits for uncorrected quality deficiencies.

Consider if the facility response time to identified concerns placed residents at further risk.

Does the entire Internal Risk Management and Quality Assurance Program consider the resident care practices specific to the facility, special care units, facility departments and services offered?

How will grievances and incidents be quickly included and addressed by the Internal Risk Management and Quality Assurance Program?

ST - N0902 - Risk Manager Required

Title Risk Manager Required

Rule 400.147(1)(a), F.S.

Type Rule

Regulation Definition

400.147(1)

(a) A designated person to serve as risk manager, who is responsible for the implementation and oversight of the facility's risk management and quality assurance program as required by this section.

Interpretive Guideline

Determine if the person serving as risk manager is designated and empowered to for implementation and oversight of the program, (consider job description or appointment letter, etc.).

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ST - N0903 - Risk Mgmt & Q A Committee

Title Risk Mgmt & Q A Committee

Rule 400.147(1)(b)

Type Rule

Regulation Definition

400.147(1)

(b) A risk management and quality assurance committee consisting of the facility risk manager, the administrator, the director of nursing, the medical director and at least three other members of the facility staff. The risk management and quality assurance committee shall meet at least monthly.

Interpretive Guideline

Modified 3/19/07

Does the Risk Management/QA committee meetings have participation from:

- Risk Manager
- Medical Director
- Administrator
- (3) Facility Staff
- Director Of Nursing

ST - N0904 - Risk Mgmt & Q A Policies and Procedures

Title Risk Mgmt & Q A Policies and Procedures

Rule 400.147(1)(c), F.S.

Type Rule

Regulation Definition

400.147(1)

(c) Policies and procedures to implement the internal risk management and quality assurance program which must include the investigation and analysis of the frequency and causes of general categories and specific types of adverse incidents to residents.

Interpretive Guideline

Modified 3/19/07

Are the policies and procedures for investigation of incidents clear for prompt identification of abuse, neglect, and exploitation?

How will Adverse Incidents, as defined in 400.147(5)(a)-(7)(e) be investigated, analyzed, and causes identified for general categories and specific types of adverse incidents?

Is there a clear methodology to track and trend for frequency of the general categories and specific types of adverse

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incidents?

ST - N0905 - Incident Reporting System

Title Incident Reporting System

Rule 400.147(1)(d), F.S.

Type Rule

Regulation Definition

400.147(1)

(d) The development and implementation of an incident reporting system based upon the affirmative duty of all health care providers and all agents and employees of the licensed health care facility to report adverse incidents to the risk manager, or to his or her designee, within 3 business days after their occurrence.

Interpretive Guideline

Modified 3/19/07

How does the facility present this affirmative duty of their health care providers, agents, employees, to report incidents within the three business days?

Interview at least one staff or agent from each shift to determine knowledge of :

-facility policy on reporting of incidents

-how is an incident reported and to whom

-what is an adverse incident

-was this included in their annual training

-what are the reporting timeframes

-have they ever reported an incident internally

ST - N0906 - Measures to Minimize Risk

Title Measures to Minimize Risk

Rule 400.147(1)(e), F.S.

Type Rule

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Regulation Definition

400.147(1)

(e) The development of appropriate measures to minimize the risk of adverse incidents to residents, including, but not limited to, education and training in risk management and risk prevention for all nonphysician personnel, as follows:

Interpretive Guideline

Modified 3/19/07

How are potential risks of treatment or services identified and actions set, to prevent or minimize the risk of adverse incident?

How are adverse incidents investigated and reviewed through the quality assurance program?

Were realistic measures taken to correct or minimize reoccurrence?

Is the risk management and quality assurance program centered on the resident care practices specific to the facility?

Are the staff involved and knowledgeable of measures to minimize risk?

Note: 400.147(3) In addition to the programs mandated by section, other innovative approaches intended to reduce the frequency and severity of adverse incidents to residents and violations of residents' rights shall be encouraged and their implementation and operation facilitated.

ST - N0907 - Risk Mgmt Training at Orientation

Title Risk Mgmt Training at Orientation

Rule 400.147(1)(e)1., F.S.

Type Rule

Regulation Definition

400.147(1)

(e) 1. Such education and training of all nonphysician personnel must be part of their initial orientation

Interpretive Guideline

Modified 3/19/07

If quality of care deficient practices have been identified review, as appropriate, training received by staff in that corresponding subject area.

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ST - N0908 - Risk Mgmt Training - 1 Hr Annually

Title Risk Mgmt Training - 1 Hr Annually

Rule 400.147(1)(e)2., F.S.

Type Rule

Regulation Definition

Interpretive Guideline

400.147(1)

Modified 3/19/07

(e) 2. At least 1 hour of such education and training must be provided annually for all nonphysician personnel of the licensed facility working in clinical areas and providing resident care.

If quality of care deficient practices have been identified review, as appropriate, training received by staff in that corresponding subject area.

The training should focus on the risk management program and how to minimize risk to the residents.

ST - N0909 - Resident Grievances in Risk Mgmt Program

Title Resident Grievances in Risk Mgmt Program

Rule 400.147(1)(f), F.S.

Type Rule

Regulation Definition

Interpretive Guideline

400.147(1)

Modified 3/19/07

(f) The analysis of resident grievances that relate to resident care and the quality of clinical services.

Is there a prompt response and correction of systems, which may negatively impact other residents?

ST - N0910 - Administrator Responsible for Risk Mgmt & Q A

Title Administrator Responsible for Risk Mgmt & Q A

Rule 400.147(2), F.S.

Type Rule

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Regulation Definition

400.147(2)

The internal risk management and quality assurance program is the responsibility of the facility administrator.

Interpretive Guideline

Is the risk manager designated and empowered by the administrator for the internal risk management and quality assurance program? Does the administrator maintain an active role throughout the process from problem identification, frequency trending, analysis, minimizing risk, and developing corrective actions? Is the program facility-wide including all department and services which may impact or cause risk to residents?

ST - N0912 - Incident Report Use in Risk Mgmt Program

Title Incident Report Use in Risk Mgmt Program

Rule 400.147(4), F.S.

Type Rule

Regulation Definition

400.147(4)

Each internal risk management and quality assurance program shall include the use of incident reports to be filed with the risk manager and facility administrator. The risk manager shall have free access to all resident records of the licensed facility. The incident reports are part of the work papers of the attorney defending the licensed facility in litigation relating to the licensed facility and are subject to discovery, but are not admissible as evidence in court.

As part of the each internal risk management and quality assurance program, the incident reports shall be used to develop categories of incidents which identify problem areas. Once identified, procedures shall be adjusted to correct the problem areas.

Interpretive Guideline

Modified 3/19/07

Conduct an interview with the risk manager to ascertain if they have free access to all records, this should also be in the overall facility Internal risk management and quality assurance program plan.

Are all incident reports being reviewed by the risk manager in order to develop problem categories specific to the facility?

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ST - N0913 - Adverse Incidents Defined

Title Adverse Incidents Defined

Rule 400.147(5), F.S.

Type Rule

Regulation Definition

400.147(5)

For purposes of reporting to the agency under this section, the term "adverse incident" means:

(a) An event over which facility personnel could exercise control and which is associated in whole or in part with the facility's intervention, rather than the condition for which such intervention occurred, and which results in one of the following:

1. Death;
 2. Brain or spinal damage;
 3. Permanent disfigurement;
 4. Fracture or dislocation of bones or joints;
 5. A limitation of neurological, physical, or sensory function;
 6. Any condition that required medical attention to which the resident has not given his or her informed consent, including failure to honor advanced directives; or
 7. Any condition that required the transfer of the resident, within or outside the facility, to a unit providing a more acute level of care due to the adverse incident, rather than the resident's condition prior to the adverse incident;
- (b) Abuse, neglect, or exploitation as defined in s. 415.102;
- (c) Abuse, neglect and harm as defined in s. 39.01;
- (d) Resident elopement; or
- (e) An event that is reported to law enforcement.

Interpretive Guideline

Modified 3/19/07

Were they reported?

Were they fully investigated through the internal risk management and quality assurance process to determine cause?

Were measures established to minimize risk to this resident and others?

Were the corrective actions quick to address facility wide safety of residents?

Adverse incidents reviewed, by the surveyor, must also include resident record review, not just the incident report.

Is there potential for deficient practice, including past non-compliance to discuss with the survey team?

If surveyor identifies an adverse incident, which the facility failed to determine to meet adverse incident criteria, direct the facility to send the report immediately to AHCA Central Office for final determination. This may reflect deficient practice in proper identification and investigation of adverse incidents.

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ST - N0914 - Risk Manager Investigation & Report

Title Risk Manager Investigation & Report

Rule 400.147(6), F.S.

Type Rule

Regulation Definition

400.147(6)

The internal risk manager of each licensed facility shall:

- (a) Investigate every allegation of sexual misconduct which is made against a member of the facility's personnel who has direct patient contact when the allegation is that the sexual misconduct occurred at the facility or at the grounds of the facility;
- (b) Report every allegation of sexual misconduct to the administrator of the licensed facility; and
- (c) Notify the resident representative or guardian of the victim that an allegation of sexual misconduct has been made and that an investigation is being conducted.

Interpretive Guideline

Modified 3/19/07

The facility must also immediately report allegations of this nature to the law enforcement and abuse registry. Proper medical evaluation should not be delayed in allegations of rape or sexual assault.

Although most of the allegations of this nature will be reviewed promptly by the agency upon receipt of the report, specifically ask for any type of allegation of sexual misconduct on survey.

Was there notification of administration and resident representative timely?

Did the risk manager conduct an internal investigation?

ST - N0915 - Adverse Incident 1- Day Reporting

Title Adverse Incident 1- Day Reporting

Rule 400.147(7), F.S.

Type Rule

Regulation Definition

400.147(7)

The facility shall initiate an investigation and shall notify the agency within 1 business day after the risk manager or his or her designee has received a report pursuant to paragraph (1)

Interpretive Guideline

Modified 3/19/07

In the incident report review, note if the risk manager started an investigation and a report sent to the agency of adverse incidents within 1 business day of the date the incident is reported to the risk manager.

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(d). The notification must be made in writing and be provided electronically, by facsimile device or overnight mail delivery. The notification must include information regarding the identity of the affected resident, the type of adverse incident, the initiation of an investigation by the facility, and whether the events causing or resulting in the adverse incident represent a potential risk to any other resident. The notification is confidential as provided by law and is not discoverable or admissible in any civil or administrative action, except in disciplinary proceedings by the agency or the appropriate, regulatory board. The agency may investigate, as it deems appropriate, any such incident and prescribe measures that must or may be taken in response to the incident. The agency shall review each incident and determine whether it potentially involved conduct by the health professional who is subject to disciplinary action, in which case the provisions of s. 456.073 shall apply.

See AHCA form 3110-0009. Does the notification have all of the mandated components:

1. identity of the affected resident
2. type of adverse incident
3. initiation of an investigation by the facility
4. whether the events causing or resulting in the adverse incident represent a potential risk to any other resident.

Referrals for practitioner disciplinary review will be conducted by Agency For Health Care Administration.

ST - N0916 - Adverse Incident Inv & 15- Day Report

Title Adverse Incident Inv & 15- Day Report

Rule 400.147(8), F.S.

Type Rule

Regulation Definition

400.147(8)

(a) Each facility shall complete the investigation and submit an adverse incident report to the agency for each adverse incident within 15 calendar days after its occurrence. If after a complete investigation, the risk manager determines that the incident was not an adverse incident as defined in subsection (5), the facility shall include this information in the report. The agency shall develop a form for reporting this information.

(c) The report submitted to the agency must also contain the

Interpretive Guideline

Modified 3/19/07

Has the facility investigated the adverse incident completely to determine if it meets adverse incident criteria. Have they utilized their complete methods of investigation for cause as outlined in their plan for the specific type of adverse incident?

See AHCA Form 3110-0010.

In cases where the surveyor determines that a quality deficiency is evident from incident report review, the resident clinical record must be reviewed (the part concerning the incident), copies of resident record may be obtained. The utilization of the established SURVEYOR INVESTIGATIVE PROTOCOLS are essential, to establish harm or

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name of the risk manager of the facility.

incident to resident or residents.

400.147

(8)(d) The adverse incident report is confidential as provided by law and is not discoverable or admissible in any civil or administrative action, except in disciplinary proceedings by the agency or the appropriate regulatory board.

ST - N0920 - Report Liability Claims Monthly

Title Report Liability Claims Monthly

Rule 400.147(9), F.S.

Type Rule

Regulation Definition

400.147(9)

Each facility subject to this section shall report monthly any liability claim filed against it. The report must include the name of the resident, the date or dates of the incident leading to the claim, if applicable, and the type of injury or violation of rights alleged to have occurred. This report is confidential as provided by law and is not discoverable or admissible in any civil or administrative action, except in such actions brought by the agency to enforce the provisions of this part.

Interpretive Guideline

Reports are made to Central Office (Tallahassee) by the 10th of each month.

See AHCA Form 3110-0008.

ST - N9999 - FINAL OBSERVATIONS

Title FINAL OBSERVATIONS

Rule

Type Memo Tag

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Regulation Definition

Interpretive Guideline