ALABAMA STATE COMMITTEE OF PUBLIC HEALTH
ALABAMA DEPARTMENT OF PUBLIC HEALTH
DIVISION OF LICENSURE AND CERTIFICATION
ADMINISTRATIVE CODE

CHAPTER 420-5-4
ASSISTED LIVING FACILITIES

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420-5-4-.01 General.

(1) **Legal Authority for Adoption of Rules.** Under and by virtue of the authority vested in it by the Legislature of Alabama, *Code of Ala. 1975*, Sections 22-21-20, et seq., the Alabama State Board of Health does hereby adopt and promulgate the following Rules governing all assisted living facilities.

(2) **Definitions.**

(a) "Advisory Board" means the Licensure Advisory Board established by law to serve as consultants to the State Health Officer and to assist in rule making necessary to carry out the provisions of *Code of Ala. 1975*, Section 22-21-20, et seq.

(b) "Assisted Living Facility" means an individual, individuals, corporation, partnership, limited partnership, limited liability company or any other entity that provides, or offers to provide, any combination of residence, health supervision, and personal care to three or more individuals who are in need of assistance with activities of daily living

which include bathing, dressing, ambulation, feeding, toileting, grooming, medication assistance, diet, and personal safety. Exceptions to this definition are:

1. Individuals who provide residential and personal care services solely to persons to whom they are personally related, shall not be deemed to be an assisted living facility. "Personally related" means that the person receiving the residential and personal care services is the spouse, parent, sibling, adult child, adult grandchild, grandparent, great-grandparent, adult niece, adult nephew, aunt, uncle, or first cousin of the person providing such services, or stands in that relation to the current spouse of the person providing the services. This exception is only for individuals, and does not apply to corporations, partnerships, limited partnerships, limited liability companies, or any other organized entity or business.

2. Facilities whose residents are under the care, oversight or protection of another governmental agency shall not be deemed to be assisted living facilities and shall not be subject to these rules, if both of the following conditions are satisfied:

(i) A federal, state, or other governmental body, agency, or authority has a fiduciary relationship or some other legally recognized and enforceable relationship to the residents of the facility which carries an obligation to oversee the health, safety, and welfare of the residents; and

(ii) The federal, state, or other governmental body, agency, or authority licenses, certifies, or otherwise legally authorizes the facility to provide accommodations and care for the residents.

(c) "Abuse" means the willful infliction of injury, unreasonable confinement, intimidation, or punishment with resulting physical harm, pain, or mental anguish. Abuse shall also include mental abuse, physical abuse, sexual abuse, and verbal abuse, as defined below.

(1) "Mental Abuse" means any willful act directed at a resident that is intended to result in or that is likely to result in mental distress or mental anguish. It includes humiliation, harassment, threats of punishment, and threats of deprivation.

(2) "Physical Abuse" means any willful act directed at a resident that is intended to result in or that is likely to result in injury or pain. Physical abuse includes

slapping, pinching, kicking, shoving, and corporal punishment of any kind.

(3) "Sexual Abuse" means any sexually oriented behavior directed at a resident by a staff member, any sexually oriented behavior between residents that is not fully and freely consented to by both residents involved, any sexually oriented behavior between residents when either or both residents are incapable of consenting to the behavior, or any sexually oriented behavior by a visitor directed at a resident incapable of consenting to the behavior.

(4) "Verbal Abuse" means the use of oral, written, or gestured language that willfully includes disparaging or derogatory terms to residents or their families, or that is used or uttered within the hearing distance of residents or their families, regardless of their age, ability to comprehend, or disability. Examples of verbal abuse include threats of harm, or saying things to frighten a resident; such as telling a resident that the resident will never see his or her family again.

(d) "Bed Capacity" means the maximum number of beds which can be installed or set up in an assisted living facility at any given time for use of residents. The bed capacity shall be based upon space designed or specifically intended for such use, whether or not the beds are actually installed.

(e) "Bed Complement" means the number of beds normally installed in an assisted living facility for use of the residents.

(f) "Board," or "State Board of Health," means the Alabama State Board of Health.

(g) "Bureau" means the Bureau of Health Provider Standards, Alabama Department of Public Health.

(h) "Closure" means that the facility has no current occupants which are classified as residents of the facility and is not accepting and admitting new residents.

(i) "Congregate Assisted Living Facility" means an assisted living facility authorized to care for 17 or more adults.

(j) "Department" means the Alabama Department of Public Health.

(k) "Elopement" means a resident who is incapable of protecting himself or herself from harm is able to successfully leave a safe area or safe premises.

(l) "Exploitation" means the deliberate misplacement or wrongful temporary or permanent use of a resident's belongings, money, or property without the resident's consent.

(m) "Family Assisted Living Facility" means an assisted living facility authorized to care for two or three adults, which was licensed prior to October 1, 2015. Family assisted living facilities currently licensed may renew their license yearly but if closed for any reason, may not be relicensed as a family assisted living facility. No new license will be granted for assisted living facilities of fewer than three beds.

(n) "Group Assisted Living Facility" means an assisted living facility authorized to care for 3 to 16 adults.

(o) "License" means the legal authority granted by the State Board of Health to operate a facility.

(p) "License Certificate" means the document issued by the State Board of Health and signed by the State Health Officer that constitutes rebuttable evidence of the facility's legal authority to operate.

(q) "Licensed Bed Capacity" means the number of beds for which the facility has been issued a certificate of licensure by the Department. The Licensed Bed Capacity is also the maximum daily census that an assisted living facility may have in its capacity.

(r) "Licensed Practical Nurse" (LPN) means a person currently licensed as a Licensed Practical Nurse by the State of Alabama Board of Nursing in accordance with *Code of Ala. 1975*, Sections 34-21-1, et seq.

(s) "Mechanical Restraint" means any manual method or physical or mechanical device, material, or equipment that the resident cannot remove which restricts freedom of movement or normal access to one's body (e.g. leg restraints, arm restraints, hand mitts, soft ties or vests, lap cushions, and lap trays). Facility practices that meet the definition of a restraint include, but are not limited to: using side rails that keep a resident from voluntarily getting out of bed; tucking in, tying, or using devices or materials to hold a sheet, fabric, or clothing tightly so that a resident's movement is restricted; using devices in conjunction with a chair, such as trays, tables, bars, or belts that the resident cannot remove, that prevent the resident from rising; placing a resident in a chair that prevents the resident from rising; and placing a chair or bed so close to a structure that the structure prevents the resident from rising out of the chair or voluntarily getting out of bed.

(t) “Medication" means all substances having medicinal properties intended for external and/or internal use for the treatment, prevention, diagnosing, or curing of any disease, illness, malady, etc., in humans. The term "medication" as defined in the Pharmacological Basis of Therapeutics shall encompass all other synonymous terms such as drugs, biologicals, chemicals, potions, remedies, or poisons.

(u) “Medication Administration” means the act of giving medications to residents by a nurse or physician as defined in these rules.

(v) “Medication Error” means any preventable event that causes or leads to inappropriate medication use or harm while medication is in the control of the assisted living facility staff or resident.”

(w) “Neglect” means the failure to provide goods and services necessary to avoid physical harm or mental distress or anguish.

(x) "Pharmacist" means a person currently licensed to practice pharmacy in Alabama under the provisions of *Code of Ala. 1975*, Sections 34-23-1, et seq.

(y) "Physician" means a person currently licensed by the Medical Licensure Commission of Alabama to practice medicine and surgery in Alabama. The use of the word, “physician” in these rules shall not be deemed to preclude a properly licensed nurse practitioner or a physician assistant from performing any function in an assisted living facility that is within that individual’s scope of practice.

(z) “Qualified Dietitian” means a person who is currently licensed in the State of Alabama in accordance with the provisions contained in current state statutes as governed by the Board of Examiners for Dietetic/Nutrition Practice.

(aa) "Registered Professional Nurse” (RN) means a person currently licensed as a Registered Professional Nurse by the State of Alabama Board of Nursing in accordance with *Code of Ala. 1975*, Section 34-21-21.

(bb) “Resident” means any individual in need of assistance with activities of daily living that receives residence, health supervision, or personal care in an assisted living facility.

(cc) "Specialty Care Assisted Living Facility" means a facility that meets the definition of an assisted living facility but which is specially licensed and staffed to permit it to care for residents with a degree of cognitive impairment

that would ordinarily make them ineligible for admission or continued stay in an assisted living facility.

(3) **Procedure Governing Adoption, Amendment, and Rescission of Rules.**

(a) Authority. The State Board of Health, with the advice and approval of the Advisory Board defined in *Code of Ala. 1975*, Section 22-21-27, has the legal authority to adopt, reasonable rules governing the operation and conduct of assisted living facilities, and it may amend or rescind any rules previously adopted.

(b) Procedure. In adopting, amending, or rescinding rules, the Board shall follow the provisions of the Alabama Administrative Procedure Act. The effective date of any rules adopted, amended, or rescinded shall likewise be governed by the Administrative Procedure Act.

(c) Joint Hearings. All hearings shall be joint hearings set by the State Board of Health and the Advisory Board, at which time any interested member of the public may be heard.

(4) **Inspections.**

(a) Inspections Required. Each assisted living facility for which a license has been granted may be inspected by the State Board of Health, or by its authorized representatives at such intervals as the Board may direct. The State Board of Health and its authorized representatives may inspect construction work including new facilities, additions, and alterations at any time the construction work is in progress or after it has been completed.

(b) Information Disclosure. Official reports, such as statements of deficiencies generated by the State Board of Health as a result of on-site inspections, and plans of correction submitted in response to those statements of deficiencies, are subject to public disclosure. Information received through other means and reports other than statements of deficiencies shall be deemed to be confidential and shall not be publicly disclosed except in response to a valid subpoena or court order or in proceedings involving the affected facility's license or proceedings involving the license of another facility operated by the same governing authority. Confidential records in the possession of the Department are deemed to be records in the possession of the State of Alabama, and shall be freely shared with any other State of Alabama agency that presents a good reason for access to the records.

(5) **Closures.**

(a) Facility closures which are temporary or less than 30 days in length must be reported to the Department in advance and authorized. Such closures do not result in automatic termination of the facility license.

(b) Facility closures of greater than 30 days, unless authorized by the Department, will result in the license becoming null and void. Any owner or operator wishing to reopen the facility as an assisted living facility shall be required to file an initial licensure application to include plan review and building inspection and obtain a certificate of completion before processing of the application by the Department.

Author: Rick Harris, Kelley Mitchell, Walter Geary
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420-5-4-.02 The License.

(1) **Classifications of Licenses.** All licenses are granted for the calendar year and shall expire on December 31 unless renewed by the owner for the succeeding year.

(a) Regular License. A regular license shall be granted by the State Board of Health upon a determination by the Board or its authorized agents that the operator or operators of the assisted living facility are willing and capable of achieving and maintaining substantial compliance with the rules herein adopted.

(b) Probational License. At its discretion, the Board may grant a probational license when it determines that the following conditions exist:

1. The facility has engaged in one or more deficient practices which are serious in nature, chronic in nature, or which the facility has failed to correct.

2. The facility's current governing authority has demonstrated the capability and willingness to correct cited problems and to maintain compliance.

3. This license shall be granted when the Board is satisfied that the health and safety of residents will not be endangered during this period. Maximum length of time for probationary status is one year.

(c) A facility on probation may not add additional beds during the probational period.

(2) **Application.**

(a) An applicant for initial licensure shall provide all information on the application form prescribed by the Department, including all information required by law, these rules, and the policies and procedures of the Department, and shall submit such additional information as shall be required by the Department in its discretion to demonstrate that the applicant has the ability and the willingness to comply with these rules. Each application shall be signed by the applicant, if the applicant is a natural person, or if the applicant is not a natural person, shall be signed by a natural person who is authorized to bind the applicant to the representations in the application and any supporting documentation.

(b) Fee. An initial license application, an application for license renewal, an application for an increase in the number of licensed beds, or an application for a change in ownership, shall be accompanied by the application fee as specified in §22-21-24, *Code of Ala. 1975*. Fees shall be paid by cash, check, or money order made payable to the Alabama Department of Public Health. An application for a name change, an application for a decrease in licensed bed capacity, or an application for a relocation is not subject to a license application fee. An application fee is non-refundable. Any application fee submitted in the incorrect amount shall nevertheless be deposited. If the fee submitted is too large, a refund for the difference shall be processed using the Department's usual procedures. If the fee submitted is too small, the applicant shall be notified and the application shall not be considered until the difference is received. Any application submitted without any fee shall be returned to the applicant. If an incomplete application is submitted, the application fee shall be deposited, and the applicant shall be notified in writing of the defects in the application. If the applicant fails to submit all required additional information within 10 working days of the date of the notice, the application shall be denied. The Department may in its discretion extend the deadline for submitting additional information. Denial of an application as incomplete shall not prejudice the applicant from submitting a new application, accompanied by the requisite fee, at a future date.

(c) Name of Assisted Living Facility. Each assisted living facility shall be designated by a permanent, distinctive, and unique name which shall be used in applying for a license and which shall not be changed without first notifying the Board in writing. A notice of name change shall specify the name to be discontinued as well as the new name. The words "hospital,"

"nursing home," "clinic," "sanatorium," "specialty care facility," "dementia care facility," "impaired memory unit," "Alzheimer's care facility," or any other term which would indicate that the facility is a different type of facility shall not be used as the name of an assisted living facility. An assisted living facility shall use its licensed name on all stationary, all signage, and on all other material that may be visible to the public, to residents of the facility, or to families of residents. An assisted living facility shall not hold itself out to the public as having a name other than its licensed name. No facility shall hold itself out to the public as an assisted living facility unless the facility has a current, valid license as an assisted living facility.

(d) Number of Beds. Each application for license and license renewal shall specify the bed capacity of the assisted living facility. In the event of a natural disaster or other catastrophic emergency, the Department may grant a temporary bed increase to any facility for reasons of public health or public safety. A temporary bed increase may be granted only for a specified number and shall expire by its terms after a specific, finite period of time.

(3) **License.** If an applicant submits a timely and complete application accompanied by the appropriate license fee and any supporting documentation that may be required by the Department, and if the Department is satisfied that the applicant is likely willing and capable of compliance with these rules, and if granting such a license would not violate any other state or federal law or regulation, then the Department, as agent for the Board, may grant a license to the applicant. All licenses granted shall expire at midnight on December 31 of the year in which the license is granted. The Department, as agent for the Board, may deny a license. A license shall only be valid at the licensed premises and for the individual or business entity licensed. It is a condition of licensure that the licensee must continuously occupy the licensed premises and remain open as an assisted living facility, fully staffed and otherwise capable of admitting and providing assisted living services. If a facility fails to remain open and staffed as required for a period of 30 days, its license shall become void unless the Department has been notified that services are temporarily suspended for remodeling or minor alterations. If a licensee abandons the licensed premises, the license shall immediately become void.

(a) Issuance of License Certificate. The license certificate issued by the State Board of Health shall set forth the name and location of the assisted living facility, the classification of the assisted living facility, and the facility's bed capacity.

(b) Separate Licenses. Each assisted living facility shall be separately licensed, regardless of whether it is owned or

managed by the same entity as another assisted living facility.

(c) Posting of License Certificate. The license certificate shall be posted in a conspicuous place on the licensed premises.

(d) License Renewal. Licenses may be renewed by the applicant as a matter of course upon submission of a completed renewal application and payment of the required fee. When the Department has served written notice on the facility of its intent to revoke or downgrade the license, a renewal application shall be filed but does not affect the proposed adverse licensure action.

(e) Failure to Renew a License. Any licensee who fails to renew a license on or before the close of business on the last business day in December shall be assessed a late fee equal to the amount of the original license fee. A license may only be renewed with the payment of a late fee before the close of business on the last business day in January of the succeeding calendar year. A license which has not been renewed by the end of January has expired and shall be void.

(f) Change of Ownership. An assisted living facility license is not transferrable. In the event that the legal ownership of the right to occupy a facility's premises is withdrawn or transferred to an individual or entity other than the licensee, the facility license shall become void and continued operation of the facility shall be unlawful pursuant to §22-21-22, *Code of Ala. 1975*, and subject to penalties as provided in §22-21-33, *Code of Ala. 1975*, unless an application for a change of ownership has been submitted to and approved by the Department prior to the transfer of legal ownership. At least 30 days prior to any proposed change in ownership, the new prospective licensee of an assisted living facility shall file a change of ownership application with the State Board of Health. An application for change of ownership shall be submitted on the form prescribed by the Department, shall be accompanied by the requisite application fee set forth in §22-21-24, *Code of Ala. 1975*, and shall be subject to the same requirements and considerations as are set forth above for initial license applications. An application for a change of ownership shall be submitted and signed by the prospective new licensee, or its agent, and also either signed by the current licensee or its agent, or accompanied by a court order demonstrating that the current licensee has been dispossessed of the legal right to occupy the premises and that the prospective new licensee has been awarded the legal right to occupy the premises. Upon approval of a change of ownership, the Department shall notify the current licensee and the new license applicant, and shall issue a license certificate to the new licensee.

Indicia of ownership of a facility include the right to hire, terminate, and to determine the compensation and benefits paid to the facility's administrator and other staff; the right to receive payment from residents and third parties for services provided by the facility; the right to establish and to change the policies, procedures, and protocols under which the facility operates; and the right to overrule operational decisions made by the facility administrator and other staff.

(g) Change in Bed Capacity. A facility may apply for a change in licensed bed capacity by submitting a completed application on a form prescribed by the Department and accompanied by the fee prescribed in §22-21-24, *Code of Ala. 1975*, together with such other documentation as the Department may require. Upon approval of a change of bed capacity, the Department shall notify the licensee and shall issue a revised license certificate to the licensee, which may be predicated on the return of the old license certificate.

(h) Change of Name. A facility may apply for a change of name by submitting a completed application on a form prescribed by the Department. There is no application fee for a change of name application. The Department may in its discretion deny an application for a change of name if the Department determines that the proposed name is misleading to the public or that the name is overly similar to the name of an already licensed facility. Separately licensed facilities owned by the same governing authority may have names that are similar to one another and distinguished from one another in some other manner, such as a geographic description. Upon approval of a change of name, the Department shall notify the licensee and shall issue a revised license certificate to the licensee, which may be predicated on the return of the old license certificate.

(i) Denial of a License. The Board may deny a license to any applicant on grounds of insufficient evidence of the willingness or ability to comply with §§22-21-20 through 22-21-34, *Code of Ala. 1975*, or these rules, including the following reasons:

1. The applicant or any principal associated with the applicant has violated any provision of §§22-21-20 through 22-21-34, *Code of Ala. 1975*.

2. The applicant or any principal associated with the applicant has been convicted of engaging in, permitting, aiding, or abetting the commission of an illegal act in any licensed health care facility.

3. The applicant or any principal associated with the applicant has engaged in conduct or practices deemed by

the Board to be detrimental to the welfare of the residents of the health care facility.

4. Conduct and practices deemed detrimental to the welfare of residents of a facility or provide grounds pursuant to this subsection for denial of a license include:

(i) The applicant or an agent authorized by the applicant has deliberately falsified any material information or record submitted as part of the application for licensure.

(ii) The applicant has changed its corporate name, charter, entity, or its partnership name or composition to avoid the imposition of liens or court action.

(iii) The applicant or any principal associated with the applicant has been convicted of engaging in the physical, mental, or sexual abuse or in the financial exploitation of a patient or patients.

(iv) The applicant or any principal associated with the applicant has operated a health care facility in Alabama or in any other jurisdiction in a manner that resulted in one or more violations of applicable laws or other requirements and as a result caused death, injury, disability, or serious risk of death, injury, or disability to any resident or patient of the facility and such past conduct causes the Department to reasonably believe that granting a license to the applicant would likely be detrimental to the life, health, or safety of prospective residents of the facility for which licensure is sought.

(v) The applicant or any principal associated with the applicant has been convicted of fraud in this or any other jurisdiction.

(vi) The applicant or any principal associated with the applicant has in the past deliberately falsified records or has otherwise made a deliberate and material misrepresentation of facts to an employee of the Department in an attempt to influence the outcome of a survey or some other regulatory compliance determination by the Department.

(vii) The applicant or any principal associated with the applicant has in the past induced or attempted to induce a subordinate employee to falsify records or to otherwise make a deliberate and material misrepresentation of facts to an employee of the

Department in an attempt to influence the outcome of a survey or some other regulatory compliance determination by the Department.

(viii) The applicant or any principal associated with the applicant is operating, or has in the past operated, an unlicensed health care facility.

(ix) The applicant or any principal associated with the applicant has at any time been debarred from participation in the Medicare or Medicaid programs.

(x) Other serious misconduct which, in the judgment of the Board, poses a serious risk to patient health or safety.

5. An applicant may appeal the denial of a license pursuant to the provisions of the Alabama Administrative Procedure Act, §41-22-1, et seq., *Code of Ala. 1975*, and the Board's Rules *for Hearing of Contested Cases, Chapter 420-1-3, Ala. Admin. Code*.

(4) **Revocation of License.**

(a) The State Board of Health may revoke or downgrade the license of an assisted living facility for any of the following reasons:

1. Violation of any of the provisions of these rules.

2. Permitting, aiding, or abetting the commission of any unlawful act in the assisted living facility.

3. Conduct or practices deemed by the State Board of Health to be detrimental to the lives, health, safety, or welfare of the residents of the assisted living facility. Conduct and practices deemed detrimental to the welfare of residents of a facility include:

(i) The administrator of the facility, the governing authority of a facility, or an agent authorized by the governing authority of the facility has deliberately falsified any material information or record submitted as part of the application for licensure or on a Department survey.

(ii) The facility or its governing authority has changed its corporate name, charter, entity, or its partnership name or composition to avoid the imposition of liens or court action.

(iii) The governing authority, any principal associated with the governing authority, or the

administrator has been found to have engaged in the physical, mental, sexual, or verbal abuse or in the financial exploitation of a resident or residents of this facility or any other licensed health care facility.

(iv) The facility has been operated in a manner that resulted in one or more violations of applicable laws or other requirements and as a result caused death, injury, disability, or serious risk of death, injury, or disability to any resident or residents of the facility and such conduct causes the Department to reasonably believe that continued licensure of the facility to its current governing authority would likely be detrimental to the life, health, or safety of residents of the facility.

(v) The facility is unable to meet its financial obligations and, as a result, its residents are at risk, as evidenced by more than one utility cut-off notice for non-payment, inadequate amounts food or supplies, vendors placing the facility on cash on delivery only status due to non-payment of prior invoices, or the failure of banks to honor employee payroll checks due to insufficient funds on deposit.

(vi) The governing authority or any principal associated with the governing authority has been found to have committed fraud in this or any other jurisdiction.

(vii) The governing authority or any principal associated with the governing authority has falsified records or otherwise made a deliberate and material misrepresentation of facts to an employee of the Department in an attempt to influence the outcome of a survey or some other regulatory compliance determination by the Department.

(viii) The governing authority or any principal associated with the governing authority has induced or attempted to induce a subordinate employee to falsify records or to otherwise make a deliberate and material misrepresentation of facts to an employee of the Department in an attempt to influence the outcome of a survey or some other regulatory compliance determination by the Department.

(ix) The governing authority or any principal associated with the governing authority is operating, or has in the past operated, an unlicensed health care facility.

(x) Other serious misconduct or failure which, in the judgment of the Board, poses a serious risk to patient health or safety.

4. Refusal by the owner or administrator to permit full inspection or survey of the facility, to permit any resident assessment or interview, or to permit a review of any records deemed necessary by the Department to fulfill a survey.

5. Failure by the facility to submit an acceptable plan of correction for deficiencies cited by the Department.

(b) The proposed revocation of a license and downgrade of license shall be governed by the provisions of the Alabama Administrative Procedure Act, §41-22-1, et seq., *Code of Ala. 1975*, and the Board's Rules for Hearing of Contested Cases, Chapter 420-1-3, Ala. Admin. Code.

(i) Before any license to operate an assisted living facility is revoked or downgraded to probational status, written notice shall be given to the administrator of the assisted living facility, and may also be given to the governing authority, giving a brief explanation of the reason or reasons that the Board proposes to revoke or downgrade the license. The written notice shall also state a time and place at which a hearing or other lawful administrative proceeding shall occur to determine whether the license will be revoked or downgraded. The date of the hearing shall be not less than 30 days from the date of the notice. The notice shall be sent by registered or certified mail to the administrator of the facility as shown on the records of the Department, and shall be mailed to the address of the assisted living facility. The hearing or other administrative proceeding shall comply in all respects with the Alabama Administrative Procedure Act and the State Board of Health rules for contested case proceedings. The licensee may be represented by legal counsel at the hearing at their own expense.

(ii) If a license is revoked, a new license may be considered by the State Board of Health only after the conditions which resulted in the revocation have been corrected to the satisfaction of the Board.

(iii) Violations of these rules may result in a penalty under *Code of Ala. 1975*, Section 22-21-33.

(iv) Return of License Certificate. Each license certificate shall be returned to the Board immediately upon its revocation or after the facility voluntarily ceases operation.

(5) **Right of Appeal.** Any licensee dissatisfied with administrative decisions made in the application of these rules may appeal under the procedures of the Alabama Administrative Procedures Act, Code of Ala. 1975, Section 41-22-1 et seq.

(6) **Dispensations for Research.** Any licensee who is, or contemplates being, engaged in a bona fide scientific research program which may be in conflict with one or more specific provisions of these rules may make application for dispensation of the specific provisions in conflict. Application for dispensation shall be made in writing to the Licensure Advisory Board which shall, upon completion of its investigation, send its findings, conclusions, and recommendations to the State Board of Health for final action.
Author: Rick Harris, Kelley Mitchell, Walter Geary
Statutory Authority: Code of Ala. 1975, §§22-21-20, et seq.
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420-5-4-.03 **Administration.**

(1) **The Assisted Living Facility Governing Authority.**

(a) An assisted living facility shall have an identified sole proprietorship, corporation, partnership, limited partnership, or other business entity that is its governing authority, or it shall have a designated individual or group of designated individuals who serve as its governing authority. A facility must give complete information to the Department identifying:

1. Each person who has an ownership interest of 10 percent or more of the governing authority.

2. Each person or entity who has an ownership interest of 10 percent or more in the real property or building used by the assisted living facility to offer its services.

3. Each officer and each director of the corporation if the governing authority is a corporation.

4. Each partner, including any limited partners, if the governing authority is a partnership.

(b) The governing authority shall submit any changes to the information listed above to the Department within 15 days of the change.

(c) Responsibility of Staff to Governing Authority. The administrator, medical staff, facility personnel, and all auxiliary organizations shall be directly or indirectly responsible to the governing authority. For the purposes of these rules, auxiliary organizations include but are not limited to licensed or certified outside providers, consultants, management companies that are not the facility license holder.

(d) The governing authority is responsible for appointing and supervising the administrator who is responsible for overall management and the day-to-day operation of the facility. Under no circumstances shall the facility operate without a licensed administrator for greater than 45 days.

(e) Policies. The governing authority shall be responsible for establishing and implementing written policies for the management and operation of the facility and shall be responsible for development of, and adherence to, procedures implementing those policies. The policies and procedures shall be made available to residents, any guardians, next of kin, sponsoring agency(ies), or representative payee(s). All residents shall be informed of new policies or changes in existing policies that may have bearing on the residents. All residents shall be provided a copy of such policies at least 30 days prior to the policies taking effect. Policies shall cover the following:

(i) Facility responsibility to protect all residents from abuse, neglect, and exploitation.

(ii) How allegations of abuse, neglect, and exploitation will be handled by the facility.

(iii) Resident confidentiality.

(iv) Admission and continued stay criteria.

(v) Discharge criteria and notification procedures for residents and sponsors.

(vi) Facility responsibility when a resident's personal belongings are lost.

(vii) What services the facility is capable and not capable of providing.

(viii) Medication management.

(ix) Infection control.

(x) Meal service, timing, menus and food preparation, storage, and handling.

(xi) Fire safety and emergency plan, fire drills, fire alarm system, sprinkler and fire extinguisher checks, and disaster preparedness.

(xii) Staffing and conduct of staff while on duty.

(xiii) Oxygen administration and storage if used in the facility.

(xiv) Dietary Policies. The dietitian, with the approval of the administrator, shall develop written policies and procedures for the guidance of all personnel handling food as outlined by the most current Food and Drug Administration Food Code published by the U.S. Department of Health and Human Services. The facility shall develop and implement dietary policies and procedures to meet the needs of the residents in the facility. In addition to other matters deemed necessary by the facility, dietary policies shall address:

(I) Sanitation of dishes, utensils, and service equipment, and sanitary food preparation and handling.

(II) The attire and cleanliness of staff members who prepare, handle, or serve food.

(III) A schedule of meals, which shall include between-meal nourishment or snacks, and fluids.

(IV) Food substitutions or alternatives.

(V) Method to ensure an adequate dietary plan is implemented for any resident with a therapeutic diet or special dietary needs.

(VI) Procedure to be followed if a resident is nutritionally compromised or is not eating adequate quantities of food.

(VII) Provision of necessary services to any resident requiring adaptive devices to eat.

(VIII) Procedure for the handling of potentially hazardous foods such as meat, milk, ice, and eggs.

(IX) Storage of food.

(X) Procedure for food service in the event of a disaster. Disaster menus shall be developed. The policy shall address how food will be obtained and maintained at safe temperatures if electricity is not available.

(2) **The Administrator.**

(a) Responsibility.

1. The administrator shall be a direct representative of the governing authority in the management of the assisted living facility and shall be responsible to the governing authority for the proper performance of his or her duties.

2. Any individual employed as an administrator shall be properly licensed.

3. Any individual employed as an administrator shall meet all applicable statutory requirements.

4. There must be an individual with experience in the day-to-day operation of the facility, who is authorized in writing, to act for the administrator during absences.

5. The administrator and any individual authorized to act as a substitute shall be at least 19 years of age.

6. The administrator and any individual authorized to act as a substitute shall be of reputable and responsible character.

7. The administrator shall ensure that adequate personnel are employed and on duty to meet the care needs of all residents 24 hours a day, 7 days a week.

8. The administrator shall manage and direct staff activities in a manner that results in maintenance of a neat, clean, orderly, and safe environment and adequate care being provided at all times. If a facility has an adequate number of staff members on duty to meet the care and safety needs of all residents, but adequate care and safety is not being provided, then the facility does not meet this administration and management requirement.

9. The facility administrator is responsible for ensuring that required training is provided to all staff.

10. The administrator shall ensure that residents who have health or safety needs beyond the capability of the facility will be safely transferred or discharged to an appropriate setting.

11. The administrator shall ensure that facility staff members observe each resident for changes in health and physical abilities and obtain appropriate medical attention when needed.

12. The administrator shall ensure that plans of care for all residents are current and appropriate. This shall include the prearranged discharge plan.

13. The administrator shall ensure that all deficient practices cited by the Department are corrected in a timely manner and that corrections are maintained.

(b) In family and group assisted living facilities, the governing authority and the administrator may be the same individual.

(c) Department Notification.

1. The licensee of an assisted living facility shall provide written notification of voluntary closure of the facility to the State Board of Health at least 30 days prior to the expected closure date.

2. The State Board of Health shall be provided written notification not later than 15 days after any change in administrator.

3. The State Board of Health shall be provided written notification not later than 15 days after any change in management company.

(d) Protection.

1. An assisted living facility must meet the applicable provisions of federal law and regulations pertaining to nondiscrimination on the basis of race, color, gender, religion, or national origin; nondiscrimination on the basis of handicap; nondiscrimination on the basis of age; protection of human subjects of research; and protection from fraud and abuse. Although federal law and regulations are not normally surveyed and enforced by the State Board of Health in assisted living facilities, serious violations of these provisions of law may nevertheless constitute grounds for adverse licensure action.

2. An assisted living facility shall obey all applicable federal, state, and local laws, ordinances, and regulations.

3. Licensing of Staff. Staff of the facility shall be currently licensed, certified, or registered in accordance with applicable laws.

4. Compliance with Other Laws. An assisted living facility shall comply with laws relating to fire and life

safety, sanitation, and communicable and reportable diseases.
Author: Rick Harris, Kelley Mitchell, Walter Geary
Statutory Authority: Code of Ala. 1975, §§22-21-20, et seq.
History: Filed November 20, 1991. **Repealed and New Rule:** Filed October 18, 2001; effective November 22, 2001. **Amended:** Filed August 20, 2015; effective September 24, 2015; operative October 1, 2015. **Repealed and New Rule:** Filed February 20, 2019; effective April 7, 2019.

420-5-4-.04 **Personnel.**

(1) An assisted living facility shall ensure personnel are employed and on duty to meet the care and safety needs of all residents 24 hours a day, 7 days a week.

(a) An assisted living facility shall be staffed at all times by at least one individual who has a current certification in cardiopulmonary resuscitation (CPR).

(b) An assisted living facility must be staffed to ensure the safe evacuation of all residents in the event of a fire or emergency.

(2) **Employee Schedule.** An assisted living facility shall post a schedule of employees indicating names and days and hours scheduled to work. This schedule shall be retained in the facility for 6 months after use.

(3) **Employee Screening.**

(a) Prior to any resident contact, such as but not limited to assistance with activities of daily living, newly employed personnel shall have a physical examination certifying that the employee is free of signs and symptoms of infectious skin lesions and diseases that are capable of transmission to residents through normal staff to resident contact. Employees who develop signs or symptoms of infectious skin lesions or diseases that would be capable of transmission to residents through normal staff to resident contact shall not be permitted to have resident contact until free from such signs and symptoms.

(b) Not more than 30 days prior to any resident contact, newly employed personnel shall be properly evaluated for tuberculosis.

(c) Vaccines. Assisted living facilities shall immunize employees in accordance with current recommended *Centers for Disease Control and Prevention* (CDC) guidelines (www.cdc.gov/vaccines). Any particular vaccination requirement may be

waived or delayed by the State Health Officer in the event of a vaccine shortage.

(d) An assisted living facility shall not hire an individual whose name is on the Alabama Department of Public Health Nurse Aide Abuse Registry.

(4) **Personnel Records.** An assisted living facility shall maintain a personnel record for each employee. This record shall contain:

(a) An application for employment which contains information regarding the employee's education, training, and experience.

(b) Verification of current certification or licensure, if applicable.

(c) Record of required physical examinations and vaccinations.

(d) Verification the facility has not hired an individual whose name is on the Alabama Department of Public Health Nurse Aide Abuse Registry.

(e) Date of hire.

(f) Date of initial resident contact.

(g) Date employment ceased.

(5) No member of the assisted living facility governing authority, and no employee of an assisted living facility, including the administrator, shall serve as legal guardian, as conservator, or as attorney-in-fact for any resident of the facility, nor shall any such individual solicit or accept control over the property of any resident, such as by becoming authorized to sign checks for the resident, or by becoming authorized to enter a resident’s safe deposit box, or by having authority to control real property or securities owned by the resident. No member of the assisted living facility governing authority, and no employee of an assisted living facility, including the administrator, shall accept gifts, cash, or any item of value from a resident of the assisted living facility other than what the resident is obligated to pay the facility for services rendered, as specified in the resident’s financial agreement with the facility. Provided, however, that assisted living facility residents, sponsors, and family members may offer, and employees may accept, gifts whose value does not exceed $25, on appropriate occasions such as holidays or birthdays if the gift is offered freely and voluntarily. In the case of a gift from a resident, the resident must have sufficient cognitive ability to knowingly, freely, and voluntarily offer a gift. Provided further, that none of these prohibitions shall apply between a resident and any member of the governing authority or employee if the two individuals are related to one another as defined in Section 420-5-4-.01(2)(b). Notwithstanding the

foregoing, individuals appointed before October 5, 2001, as legal guardians for assisted living facility residents may continue to serve. This subsection is not intended to prevent assisted living facilities from offering to place resident funds in an escrow or trust account for the benefit of the resident whose funds are deposited, so long as exclusive decision-making authority for fund disbursement is vested in the resident or responsible family member, and so long as disposition of escrowed funds are periodically reported to the resident or family member as appropriate. This subsection is also not intended to prohibit facilities from accepting memorial gifts in any amount from family members of deceased relatives, nor is it intended to prohibit facilities from accepting testamentary bequests in any amount from the estates of deceased residents.

(6) **Training.**

(a) All staff who have contact with residents, including the administrator, shall have initial training prior to resident contact and refresher training annually and as necessary. Documentation of all staff training to include attendance records and any required post-test or evaluations shall be maintained in the facility. In addition to any information otherwise required by the facility's policies and procedures, the facility shall ensure that prior to resident contact, all staff members receive training on the subject matter listed below:

1. State law and rules on assisted living facilities.

2. Facility policies and procedures.

3. Resident rights.

4. Current certification from the American Heart Association or the American Red Cross in cardiopulmonary resuscitation (CPR) within 90 days of hire.

5. Identifying and reporting abuse, neglect, and exploitation.

6. Basic first aid.

7. Advance directives.

8. Protecting resident confidentiality.

9. Resident fire and environment safety.

10. Special needs of the elderly, mentally ill, and mentally retarded.

11. Safety and nutritional needs of the elderly.

12. Identifying signs and symptoms of dementia.

(b) Cardiopulmonary Resuscitation. An assisted living facility shall be staffed at all times by at least one individual who has a current certification from the American Heart Association or the American Red Cross in CPR. All employees of an assisted living facility who have contact with residents must be certified in CPR from the American Heart Association or the American Red Cross. New employees must obtain certification in CPR within 90 days of hire. An assisted living facility equipped with an automated external defibrillator (AED) shall be staffed at all times by at least one individual who has a current certification from the American Heart Association or the American Red Cross in AED utilization. Substitute training approved by the Department for use by emergency medical services personnel (EMSP) may be utilized in lieu of those courses or certifications offered by the American Heart Association or American Red Cross in CPR or AED utilization.

(c) If the facility admits or retains residents with special needs such as diabetes, hospice, or oxygen therapy, the facility shall provide staff with the appropriate training.

(d) Continuing Education. All staff must receive annual continuing education sufficient to remain knowledgeable of the training specified above.

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420-5-4-.05 **Records And Reports.**

(1) **General.**

(a) Responsibility for Records. The administrator shall prepare and file all records, or shall oversee the preparation and filing of records. This duty shall be assigned to other employees in the administrator's absence.

(b) All records and reports required by these rules shall be completed in a timely manner, and shall be maintained and filed in an orderly manner within the assisted living facility premises.

(c) Storage and Safety. Provision shall be made for the safe storage of records within the facility. Records shall be stored in a manner to reasonably protect them from water or fire damage. Records shall be safeguarded from unauthorized access.

(d) All facility records, including resident medical records, shall be made readily available for review and copying on demand by representatives of the State Board of Health upon request.

(2) **Administrative Records and Documents.**

(a) Each assisted living facility shall maintain the following records and documents. Unless otherwise specified below, a photocopy of the record or document shall be sufficient to meet this requirement.

1. Original Articles of Incorporation or certified copies thereof, if the governing authority is incorporated, or partnership documents if the governing authority is a partnership or limited partnership.

2. A current copy of the constitution or bylaws of the governing authority, with a current roster of the membership of the governing authority.

3. Up-to-date personnel records for all employees and former employees of the facility. Personnel records for former employees shall be retained for at least 3 years after the employee leaves employment.

4. Current policy and procedure manual.

(3) Resident Records.

(a) Records shall be current from the time of admission to the time of discharge or death and shall be retained in the facility for at least three years after a resident's death or discharge.

(b) When an individual is admitted to an assisted living facility, records and information regarding the resident shall be protected from unauthorized disclosure. Employees and authorized agents of the Department shall be permitted to review all medical records and all other records to determine compliance with these rules. With the written consent of the resident, or with the written consent of the legal guardian of an incompetent resident, the local ombudsman shall be permitted access to all records regarding the resident. Records necessary to assess a resident's medical condition or to otherwise render good medical care shall be provided to the resident's treating physician or physicians or to the resident

or to his or her legally authorized representative. A resident or his or her legal guardian may grant permission to any other individual to review the resident's confidential records by signing a standard release.

(c) In addition to all records required for the provision of resident care, for each resident, the assisted living facility shall maintain on its premises the required documents listed below and any other documents required by the facility's policies and procedures:

1. Statement of resident rights signed by the resident.

2. Financial agreement.

3. Inventory of personal effects.

4. Admission record.

5. Incident investigations and reports involving the resident.

In addition to the above documents, the facility shall also maintain on its premises any Advance Directive or Portable Physician Do Not Attempt Resuscitation (DNAR) Order that has been executed by the resident. NOTE: Under no circumstances shall the facility require or refuse to allow a resident to execute an Advance Directive or Portable Physician DNAR Order. Advance Directives shall be typewritten or legibly written in ink and may include the appointment of a health care proxy consistent with the specific language in the Natural Death Act (Code of Ala. 1975, 22-8A-1 et seq). A Portable Physician DNAR Order shall follow the rule and form found in the Alabama Administrative Code 420-5-19 Appendix II. These records shall be protected from unauthorized disclosure.

(d) Residents' Rights. Each resident shall be fully informed, prior to or at the time of admission of these rights. A copy of these rights shall be conspicuously posted in a resident common area. Each resident's file shall contain a copy of a written acknowledgment that he or she has read these rights, or has had these rights fully explained by facility staff to the resident, or, if appropriate, to the resident's sponsor. The acknowledgment shall be signed and dated by the administrator or the administrator's designee and by the resident or sponsor, when appropriate.

1. No resident shall be deprived of any civil or legal rights, benefits, or privileges guaranteed by law or the Constitution of the U.S. solely by reason of status as a resident of the facility.

2. Every resident shall have the right to live in a safe and decent environment, to be free from abuse, neglect, and exploitation, and to be free from chemical and physical restraints.

3. Every resident shall have the right to be treated with consideration, respect, and due recognition of personal dignity, individuality, and the need for privacy.

4. Every resident shall have the right to unrestricted private communication, including receiving and sending unopened correspondence, access to a telephone, and visiting with any person of his or her choice, at any reasonable time.

5. Every resident shall have freedom to participate in and benefit from social, religious, and community services and activities and to achieve the highest possible level of independence, autonomy, and interaction within the community.

6. Every resident shall have the right to manage his or her own financial affairs. If a resident or his or her legally appointed guardian authorizes the administrator of the facility to provide a safe place to keep funds on the premises, an individual account record for each resident shall be maintained by the administrator and an up-to-date record shall be maintained for all transactions.

7. Every resident shall have the right to share a room with his spouse if both are residents of the facility and agree to do so.

8. Every resident shall have the right to a reasonable opportunity for regular exercise several times a week and to be outdoors at regular and frequent intervals.

9. Every resident shall have the right to exercise civil and religious liberties, including the right to independent personal decisions. No religious beliefs or practices, nor compulsory attendance at religious services, shall be imposed upon any resident.

10. Every resident shall have access to adequate and appropriate health care consistent with established and recognized standards within the community including the right to receive or reject medical care, dental care, or other health care services except those required to control communicable diseases.

11. Every resident shall have the right to at least 30 days prior written notice of involuntary relocation or

termination of residence from the facility unless the resident is a patient in a facility providing a higher level of care and no longer meets the eligibility and continued stay requirements in these rules, or for medical reasons the resident is considered by a physician to require an emergency relocation to a facility providing a more skilled level of care, or unless the resident engages in a pattern of conduct that is harmful or dangerous to himself or herself or to other residents. Such actions will be documented in the resident's admission record.

12. Every resident shall have the right to present grievances and recommend changes in policies, procedures, and services to the staff of the facility, the facility's management and governing authority, and to any other person without restraint, interference, coercion, discrimination, or reprisal.

13. Every resident shall have the right to confidential treatment of personal and medical records. A resident may authorize the release of records to any individual of his or her choice. Such authorization must be given by the resident in writing and the written authorization must be included in the resident's file.

14. Every resident shall have the right to refuse to perform work or services for the facility unless the resident expressly agrees to perform such work or services and this agreement is plainly documented in the admission agreement. A resident may voluntarily perform work or services for the facility, provided that:

(i) The facility has documented the resident's desire to perform work in the resident's plan of care, and the resident has signed this plan of care.

(ii) The plan of care specifies the nature of the work to be performed and sets forth the compensation to be paid for the service, unless the service is to be performed without compensation; and

(iii) The resident has the right and understands that he or she has the right to terminate the agreement to work at any time without recourse.

15. Every resident shall be fully informed, prior to or at the time of admission and at regular intervals during his or her stay, of services available in the facility, and of related charges.

16. Every resident shall be fully informed, as evidenced by the resident's written acknowledgment, prior to or at

the time of admission, of all rules and regulations governing residents' conduct and responsibilities.

17. Every resident shall have the right to have the name, telephone number, and address of the Department’s Bureau of Health Provider Standards, the Local Ombudsman, the Department of Human Resources, and the telephone numbers of the Department of Public Health toll-free Assisted Living Facilities Complaint Hotline and the Department of Human Resources toll-free Elder Abuse Hotline. All of this information shall be posted in a conspicuous location in a resident common area.

18. All state inspection reports and any resulting corrective action plan from the past 24 months shall be posted in a prominent location. If there has been no inspection in the past 24 months, then the results of the most recent inspection and any resulting corrective action plan shall be posted.

19. Every resident shall have the right to 30 days prior written notice to both resident and sponsor of any increase of fees or charges.

20. Every resident shall have the right to 30 days prior written notice of any involuntary change in the resident’s room or roommate unless the change is necessary because the resident or the resident’s roommate engages in a pattern of conduct that is harmful or dangerous to himself or herself or to other residents.

21. Every resident shall have the right to wear his or her own clothes, to keep and use his or her own personal possessions including toilet articles except for personal possessions too large to be stored in the resident’s room.

22. Every resident shall have the right to be afforded privacy for sleeping and for storage of personal belongings.

23. Every resident shall have the right to have free access to day rooms, dining, and other group living or common areas at reasonable hours and to freely come and go from the home.

24. Every resident shall have the right to participate in devising the resident’s care plan, including providing for the resident's preferences for physician, hospital, nursing home, acquisition of medication, emergency plans, Advance Directives, and funeral arrangements. A copy of this care plan shall be kept in the resident's file.

(e) Financial Agreement.

1. Prior to, or at the time of admission, the administrator and the resident or the resident's sponsor shall execute a written financial agreement. This agreement shall be prepared and signed in two or more copies with at least one copy given to the resident, or sponsor, if the resident did not sign the agreement, and one copy retained in the assisted living facility. This document shall be made readily accessible to personnel from the State Board of Health during inspections.

2. In addition to any information otherwise required by the facility's policies and procedures this agreement shall contain the following:

(i) A complete list of the facility's basic charges (room, board, laundry and personal care and services).

(ii) The period covered by the financial agreement.

(iii) A list of services not covered under basic charges and for which additional charges will be billed.

(iv) The policy and procedures for refunds of any payments made in advance.

(v) The provisions governing termination of the agreement by either party.

(vi) The facility's bed-hold policy, procedures, and charges.

(vii) Documentation that the resident and sponsor understand that the facility is not staffed and not authorized to perform skilled nursing services nor to care for residents with severe cognitive impairment and that the resident and sponsor agree that if the resident should need skilled nursing services or care for a severe cognitive impairment as a result of a condition that is expected to last for more than 90 days, that the resident will be discharged by the facility after prior written notice.

(viii) A reminder to the resident or sponsor that the local ombudsman may be able to provide assistance if the facility and the resident or family member are unable to resolve a dispute about payment of fees or monies owed.

(ix) Signatures of both parties or authorized representatives.

3. Prior to execution of the financial agreement the facility shall ensure that the resident or sponsor fully understands its provisions. In the event that a resident is unable to read the agreement due to illiteracy or infirmity, the administrator shall take special steps to ensure communication of its contents to the resident (for example, by having the administrator or sponsor read the agreement to a vision-impaired or illiterate applicant).

(f) Inventory of Personal Effects.

1. Upon admission to the assisted living facility, all personal property of the resident with a value in excess of $150, as well as any other property designated by the resident, shall be inventoried by the administrator or by a designee of the administrator in the presence of the resident.

2. All inventories shall be entered on an Inventory of Personal Effects Record. Inventory forms shall be signed by both the administrator, the resident, or if appropriate, the sponsor. One copy of the inventory shall be filed in the resident's individual file and one copy given to the resident or sponsor.

3. In the event the resident has no personal effects, this fact shall be entered on the Inventory of Personal Effects Record.

4. Amendments or adjustments shall be made on all copies of the Inventory of Personal Effects Record each time personal property valued in excess of $150 is brought to the facility, or when personal property is brought to the facility and the resident or sponsor requests that it be added to the Inventory of Personal Effects Record, or when any item on the Inventory of Personal Effects Record is removed from the facility. All amendments shall be signed by the administrator and the resident or sponsor.

(g) Admission Record. A permanent record shall be developed for each resident upon his or her admission to the facility and updated as necessary to remain current. This record shall be typewritten or legibly written in ink. In addition to any information otherwise required by the facility's policies and procedures, it shall include the resident's:

1. Name.

2. Date of birth.

3. Sex.

4. Marital status.

5. Social security number.

6. Veteran status.

7. Name, address, and contact information of the resident’s sponsor, responsible party, or closest living relative.

8. Name, address, and contact information of any person or agency providing assistance to the resident.

9. Name, address, and contact information of the resident’s attending physician.

10. Preferred pharmacy or pharmacist.

11. Date of admission.

12. Date of discharge.

13. Facility, setting, or location to which discharged.

14. Date of death.

15. Cause of death, if known.

16. Religious preferences.

17. Information from insurance policies regarding funeral arrangements and burial provisions.

18. Written documentation that the facility has devised a plan to transfer the resident to a hospital, nursing home, specialty care assisted living facility, or other appropriate setting if and when the facility becomes unable to meet the resident’s needs. The resident's preference, if any, with respect to any particular hospital, nursing home, or specialty care assisted living facility shall be recorded. The facility shall keep written documentation that demonstrates the transfer plan has been thoroughly explained to the resident or sponsor, as appropriate, and that the resident or sponsor understands the transfer plan.

19. The written documentation of the procedure to follow in case of serious illness, accident, or death to the resident (including the name and telephone number of the physician to be called, the names and telephone numbers and addresses of family members or sponsor to be

contacted, the resident's or, if appropriate, the sponsor's wishes with respect to disposition of personal effects, and the name and telephone number of the funeral home to be contacted).

(h) Incident Investigation. When an incident, as defined below, occurs in an assisted living facility, the facility administrator shall be immediately notified, the facility shall conduct a thorough investigation, and appropriate corrective actions and interventions shall be devised and implemented immediately. A detailed and accurate report shall be completed within 72 hours of the incident. The report shall be given immediately upon completion to the administrator for review.

1. Incidents which require investigation are:

(i) An accident or injury of known or unknown origin that was unusual or suspicious in nature such as bruising, pain, or injury that is not consistent with actions necessary in providing day to day care to a resident or for which medical treatment was sought.

(ii) A fracture or an injury resulting in medical attention. For the purposes of these rules, medical attention shall be defined as care that rises above the level of first aid, including but not limited to: a physician ordered portable X-ray, a visit to an emergency department, urgent care facility, clinic or physician office.

(iii) The onset of wandering behavior by any resident who is not fully cognitively intact.

(iv) Elopement by a resident.

(v) Suspected, alleged, confessed, witnessed, or actual abuse of a resident or residents by staff, visitors, or other residents. This includes all types of abuse including mental abuse, physical abuse, sexual abuse, and verbal abuse as defined in these rules.

(vi) Suspected, alleged, confessed, witnessed, or actual neglect of a resident or residents as defined in these rules.

(vii) Suspected, alleged, confessed, witnessed, or actual exploitation of a resident or residents as defined in these rules.

(viii) An outbreak (for purposes of these rules, an outbreak is considered to be two or more affected

people within 72 hours or less) of a contagious disease or condition including those listed in Appendix I of Alabama Administrative Code Sec. 420-4-1-.04 (for example food-borne illness, scabies, influenza, or Staphylococcus aureus).

(ix) A fire, earthquake, storm, other act of God, or other occurrence (for example, a natural gas leak or a bomb threat) that causes physical damage to the building in which the facility is located, or that results in the evacuation or partial evacuation of the facility.

(x) Intentional self-inflicted injury, suicide, or suicide attempt by a resident.

(xi) An unplanned occurrence that results in media attention.

(xii) A medication error, overdose, or over sedation.

(xiii) Ingestion by a resident of a toxic substance that requires medical attention.

(xiv) Any indication of malfunction of the sprinkler system, or fire alarm system.

2. In addition to other items required by the facility's policies and procedures, the incident investigation shall contain the following:

(i) Names of all residents involved.

(ii) Names of all staff involved including person in charge at the time of the incident.

(iii) When the administrator was notified (date and time).

(iv) Circumstances under which the incident occurred.

(v) When the incident occurred (date and time).

(vi) Where the incident occurred (for example, bathroom, bedroom, street, or lawn).

(vii) Immediate actions taken.

(viii) The extent and description of injury, if any, to the affected resident or residents.

(ix) Immediate treatment rendered.

(x) Symptoms, pain, or injury discussed with the physician, and the date and time the physician was notified.

(xi) Names, telephone numbers, and addresses of witnesses.

(xii) Date and time relatives or sponsor were notified.

(xiii) Out-of-facility treatment.

(xiv) Follow-up care.

(xv) Outcome resolution.

(xvi) The action taken by the facility to prevent the occurrence of similar incidents in the future.

(xvii) The investigative file includes the incident report itself, the incident investigation and all records, documents, statements, images, and information created or reviewed in connection with the investigation.

(xviii) The entire investigative file shall be made available for inspection and copying by representatives of the Department upon request.

(xix) The entire investigative file and documentation of all corrective action taken shall be retained for a period of not less than 3 years after the resident is discharged or dies.

(xx) Interventions devised as a result of the investigation shall be included in a resident record that is available to the personal care staff.

3. In addition, the following incidents shall be reported to the Department's Online Incident Reporting System within 24 hours of the incident:

(i) A fracture or an injury resulting in death, EMS activation, or the need for medical attention as defined in these rules.

(ii) Elopement by a resident.

(iii) Suspected, alleged, confessed, or witnessed abuse, neglect, or exploitation of a resident or residents by staff, visitors, or other residents. This includes all types of abuse including mental abuse, physical abuse, sexual abuse, and verbal abuse

as defined in these rules. The victim's sponsor or responsible family member shall be notified within 24 hours. All incidents of suspected abuse, neglect, or exploitation shall be reported immediately to the Department of Human Resources or to appropriate law enforcement authorities as required by law. These documents shall be retained with the facility investigative file.

(iv) A fire, earthquake, storm, other act of God, or other occurrence (for example, a natural gas leak or a bomb threat) that causes physical damage to the building in which the facility is located, or that results in the evacuation or partial evacuation of the facility.

(v) Intentional self-inflicted injury, suicide, or suicide attempt by a resident.

(vi) An unplanned occurrence that results in media attention.

(vii) Any medication error, overdose, or over sedation. The incident shall be immediately reported to the attending physician, facility medical director, or back-up physician.

(viii) Ingestion by a resident of a toxic substance that requires medical attention.

(ix) Notifiable diseases and health conditions listed in Appendix I of the Alabama Administrative Code Sec. 420-4-1-.04 shall be reported by the facility to the State Health Officer or the County Health Officer within the time frames specified in 420-4-1-.04. The facility shall maintain documentation of any reports of notifiable diseases or health conditions. This documentation shall be retained for a period of not less than 3 years.

(x) Any indication of malfunction of the sprinkler system, or fire alarm system.

4. The report to the Department’s Online Incident Reporting System shall include the following:

(i) Facility name and direct phone number.

(ii) Time and date of the report.

(iii) Reporter’s name.

(iv) Name of resident(s), staff, or visitor(s) involved in the incident.

(v) Names of staff on duty at the time of the incident.

(vi) Date and time of the incident.

(vii) A brief description of the incident.

(viii) Any injury or injuries to resident(s).

(ix) Action taken by the facility in response to the incident.

Author: Rick Harris, Kelley Mitchell, Walter Geary
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420-5-4-.06 **Care Of Residents.**

(1) **Medical Direction and Supervision.** The medical care of residents shall be under the direction and supervision of a physician.

(a) Designation of Attending Physician. Upon admission, each resident shall be asked to designate an attending physician of his or her choice. If the resident is unable to designate an attending physician, or does not wish to designate an attending physician, the facility shall assist the resident in identifying an attending physician who will serve the resident. A resident shall be permitted to change the designation of his or her attending physician at any time. Whenever a resident requires medical attention, an attempt shall first be made to contact the resident's attending physician, except in medical emergencies requiring activation of the local EMS system (911 or another emergency call).

(b) Back-up Physician Support. Each assisted living facility shall have an agreement with one or more duly licensed physicians to serve in those instances when a resident's own attending physician cannot be reached, and to provide temporary medical attention to any resident whose attending physician is temporarily not available. A nurse practitioner or physician's assistant shall not serve as the back-up physician in an assisted living facility.

(c) All physician orders shall be written in accordance with community standards. If verbal orders are used, they are to be used infrequently. A physician verbal order shall only be accepted by an RN or LPN employed by the facility and authorized to do so by facility policy and procedures and state law. All verbal orders shall be reduced to writing on the physicians' order sheet by a licensed facility nurse and shall be dated and signed by the nurse receiving the order. All orders, including verbal orders, shall be dated, timed, and authenticated promptly by the ordering practitioner, or another practitioner who is responsible for the care of the resident and authorized to write orders by facility policy. All verbal orders must be authenticated within such time period as provided by facility policy, but in no case shall exceed 30 days following entry of the order.

(2) **Medical Examination Record.**

(a) Initial Physical Examination. Not more than 30 days prior to admission of any resident to an assisted living facility, the resident or prospective resident shall be examined by a physician. For purposes of the initial physical examination only, a currently licensed physician in good standing with the Medical Licensure Commission of any state may complete this physical assessment. The physician shall report his or her findings in writing to the facility. In addition to any information otherwise required by the facility's policies and procedures, and in addition to any other information the physician recommends or believes is pertinent, the initial physical examination record shall contain the following:

1. All of the physician's diagnoses, and the resident's baseline weight and vital signs.

2. Medication presently prescribed (name, dosage, and strength of drug, frequency, and route of administration).

3. A statement by the physician that the resident is free of signs and symptoms of infectious skin lesions and diseases that are capable of transmission to other residents through normal resident to resident contact.

4. Documentation of evaluation for tuberculosis within the previous 12 months.

(b) Annual Physical Examination. In addition to the admission physical examination, each resident shall be examined annually by a physician, and findings from the annual physical examination shall be documented with a copy placed in the resident's medical examination record. In addition to any other items specified in the facility's policies and procedures, and in addition to any information deemed

necessary, pertinent, or recommended by the resident's attending physician, the annual physical examination shall contain the following:

1. The resident's weight and vital signs.

2. Changes in diagnoses.

3. Changes in medications prescribed (name, dosage, and strength of drug, frequency, and route of administration).

4. Changes in treatment.

(c) Change of Condition Physician Examinations. Changes in the resident's condition that require a physician examination and result in a change in diagnoses, medications, or treatments shall be reported to the facility and documented in the resident's medical examination record. In addition to any other items specified in the facility's policies and procedures, and in addition to any information deemed necessary, pertinent, or recommended by the resident's treating physician, this physical examination shall contain a listing of the following:

1. New diagnoses.

2. Changes in condition.

3. Changes in medications prescribed (name, dosage, and strength of drug, frequency, and route of administration).

4. Changes in treatment.

(d) Vaccines. Assisted living facilities shall immunize residents in accordance with current recommended CDC guidelines. Any particular vaccination requirement may be waived or delayed by the State Health Officer in the event of a vaccine shortage.

(3) **Health Supervision.**

(a) Initial Assessment. No more than 30 days prior to admission, the facility shall assess prospective residents for facility eligibility. This assessment shall document identified care needs and serve as a baseline for future assessments.

(b) Monthly Assessments. The facility shall assess each resident monthly and more often when necessary to identify changes in resident's status. In addition to other items that

may be required by the facility's own policies and procedures, the monthly assessment shall:

1. Assess the resident's ability to safely self-manage medications or safely self-administer medications with assistance.

2. Accurately weigh and record the weight of each resident. A significant weight loss is defined as a 5 percent or greater weight loss in a period of 1 month or less, or a 7 ½ percent or greater weight loss in a period of 3 months or less, or a 10 percent or greater weight loss in a period of 6 months or less. Any weight loss shall be considered to be an unplanned weight loss unless the affected resident has been placed on a restricted calorie diet specifically for the purpose of reducing the resident's weight, and such diet has been approved by the resident's attending physician or by a dietitian licensed by the Alabama Board of Examiners for Dietetics and Nutritionists as authorized by the medical director.

3. Document identified changes in resident status.

4. Assess the appropriateness of each resident's plan of care. Any decline in resident status requires immediate implementation and documentation of interventions or reassessment of existing interventions.

(c) Observation. Each assisted living facility shall provide general observation and health supervision of the residents to identify changes in all residents' health conditions and physical abilities, and awareness of the need for medical attention or nursing services as the changes develop. Whenever a resident requires medical attention, nursing services, or changes in personal care and assistance with activities of daily living provided by the facility, the facility shall arrange for or assist the residents in obtaining necessary services.

(d) Services Beyond Capability of Assisted Living Facility. Whenever a resident requires hospitalization, medical, nursing, or other care beyond the capabilities and facilities of the assisted living facility, arrangements shall be made to discharge the resident to an appropriate setting, or to transfer the resident promptly to a hospital or other health care facility able to provide the appropriate level of care.

(e) Care During Emergency or Illness. The resident's attending physician, or a backup physician, if the attending physician is unavailable, shall be promptly called at the onset of an illness or in case of an accident or injury to a resident. In case of a medical emergency that could result in death, serious medical impairment, or disability to a resident,

the local EMS system shall be activated by calling 911 or other emergency local telephone number.

(f) All assisted living facilities shall maintain the following telephone numbers, properly identified, and posted in a prominent location readily accessible and known to all staff members:

1. Each resident's attending physician, and the facility's backup physician or physicians.

2. 911, or the local emergency telephone number if the community is not served by a 911 telephone service.

(g) Mechanical Restraint and Seclusion. No form of physical restraint or seclusion shall be applied to residents of an assisted living facility except in extreme emergency situations when the resident presents a danger of harm to himself or herself or to other residents. In such an event, the facility shall use the least restrictive intervention that will be effective to protect residents, immediately notify the resident's physician and sponsor, and appropriate treatment, transfer to an appropriate health care facility, or both shall be provided without any avoidable delay. In no event shall emergency behavioral symptoms of residents be treated with sedative medications, anti-psychotic medications, anti-anxiety medications, or other psychoactive medications in an assisted living facility.

(h) Resident Abuse, Neglect, and Exploitation. Each facility shall develop and implement a policy and procedure to protect each resident of the facility from abuse, neglect, and exploitation. The facility shall ensure that all staff can demonstrate an understanding of what constitutes abuse, neglect, and exploitation, and shall ensure that all staff understands his or her responsibility to immediately report suspected, alleged, confessed, witnessed, or actual incidents of abuse, neglect, or exploitation of a resident to the administrator. When abuse, neglect, or exploitation is suspected, alleged, confessed, witnessed, or actual the facility shall conduct and document a thorough investigation and take appropriate action to prevent further abuse. All allegations, suspicions, confessions, witnessed, or actual incidents shall be reported to the Assisted Living Unit of the Alabama Department of Public Health and to the victim's sponsor or responsible family member within 24 hours. Suspected, alleged, confessed, witnessed, or actual abuse, neglect, or exploitation of a resident shall be reported to the Department of Human Resources or law enforcement in accordance with *Code of Ala. 1975,* Section 38-9-8. At any time that a resident has been the victim of sexual assault or sexual abuse perpetrated by a staff member or visitor, local law enforcement authorities shall be immediately notified.

(i) Laboratory Tests. Any facility conducting or offering laboratory tests for its residents, including routine blood glucose monitoring, shall comply with federal law, and specifically with the applicable requirements of the federal Clinical Laboratory Improvement Act (CLIA) as well as with applicable federal regulations. This requirement in some cases would require the facility to obtain a CLIA certificate, and in other cases would require the facility to obtain a CLIA waiver. For more information about CLIA requirements, a facility may contact the department, Bureau of Health Provider Standards. For testing or monitoring requiring blood, either the resident must draw his or her own blood or the blood must be drawn by a physician, an R.N. or L.P.N., or a phlebotomist from a licensed Independent Clinical Laboratory. Blood and blood products, needles, sharps, and other paraphernalia involved in collecting blood must be handled in a manner consistent with requirements of the federal Occupational Safety and Health Administration (OSHA). Personnel handling such materials must be vaccinated against blood borne diseases if such vaccinations are required by OSHA. Blood, blood products, needles, sharps, and other paraphernalia involved in collecting blood shall be treated as medical waste and shall be disposed of in a manner compliant with the requirements of the State of Alabama Department of Environmental Management.

(4) **Personal Care and Services.** The facility shall provide care and services consistent with community standards.

(a) Portions of residents' records necessary for staff to provide care, including the plans of care and relevant portions of the medical examination records and admission records, shall be accessible to the direct care staff at all times.

(b) Plan of Care. There shall be a written plan of care developed for each resident prior to or at the time of admission. The plan of care shall be based on the initial medical examination, diagnoses, and recommendations of the resident’s treating physician. The plan of care shall be reviewed and updated based on the annual examination, and all other physician examinations, diagnoses, and recommendations of the resident’s treating physician, and the resident’s monthly assessments. The plan of care shall be developed and updated in cooperation with the resident and, if appropriate, the sponsor. All entries on the plan of care shall be accurately dated.

1. The plan shall at all times reflect the current condition of the resident and document the personal care and services required from the facility by the resident. In addition to other items that may be required by the facility’s own policies and procedures, the plan of care shall contain the following:

2. A listing of the resident's individual needs or problems that require intervention by the facility.

3. A listing of interventions provided by the facility to address the resident's identified needs or problems.

4. A copy of any outside provider's certification and plan of care, such as the current Home Health Certification and Plan of Care for each resident receiving care from an outside provider.

5. Activities of Daily Living. Residents of assisted living facilities shall be assisted and encouraged to maintain a clean, well-kept personal appearance. Each facility shall provide all needed assistance with activities of daily living to each resident.

(i) Bathing. Residents shall be offered a bath or partial bath or shall be assisted with a bath or partial bath daily, and more often when necessary or requested.

(ii) Oral Hygiene. Residents shall be assisted with oral hygiene to keep mouth, teeth, or dentures clean. Measures shall be used to prevent dry, cracked lips.

(iii) Hair. Resident's hair shall be kept clean, neat, and well groomed.

(iv) Manicure. Fingernails and toenails shall be kept clean and trimmed.

(v) Shaving. Men shall be assisted with shaving or shaved as necessary to keep them clean and well groomed.

(vi) Personal Safety. Residents shall be provided assistance with personal safety.

6. As changes in medication and personal services become necessary, the plan of care shall be promptly updated and all changes shall be documented.

(c) The facility shall offer appropriate activity programs to each resident, maintaining supplies and equipment as necessary to implement the activity programs. Every day the facility shall provide activities appropriate to each resident.

(d) Pets residing at the facility or used in activity programs shall be in good health and shall have current vaccinations as required by law. Vaccination certificates, or copies of vaccination certificates, shall be kept on file at the facility to demonstrate compliance with this requirement.

(e) Mail, Telegrams, and Other Communications.

1. Incoming mail, telegrams, and other written communications addressed to the resident shall be delivered to the resident unopened. Outgoing mail shall be promptly delivered to regular postal channels upon receipt from the resident. Residents shall be permitted to place and receive telephone calls at the facility in complete privacy.

2. Personnel of the facility shall assist residents with communications, such as writing letters or assisting with writing letters, or reading mail out loud if requested to do so.

(f) Appointments. Residents shall be assisted in making and keeping appointments.

(5) **Medications.**

(a) Medications as defined in these rules, may be administered to a resident of an assisted living facility only after the drugs have been prescribed specifically for the resident by an individual currently licensed to prescribe medications in Alabama. A currently licensed physician in good standing with the Medical Licensure Commission of any state may prescribe medications to a resident of an assisted living facility only during the initial physical examination.

(b) A physician order is required for a resident to manage and have custody of his or her own medications.

(c) A resident may have custody of and manage over the counter topical medications with the written approval of a physician. A physician order is not required for over the counter topical medications that are self-administered by residents and approved by the physician for resident possession.

(d) Nothing in these rules shall preclude a facility from using a licensed nurse employed by the facility or nursing agency to administer medication to any resident. An R.N. or L.P.N. shall administer medications to residents in the assisted living facility only in accordance with physician orders and the Nurse Practice Act.

(e) A resident who is incapable of recognizing his or her name, or understanding the facility unit dose medication system, or does not have the ability to protect himself or herself from a medication error shall require medication administration. Medication administration shall be provided only by a physician or by an R.N. or L.P.N. If the resident cannot understand or be trained to understand the unit dose medication system used by the facility or cannot protect

himself or herself from medication errors by facility staff, the resident will be appropriately discharged.

(f) A resident may self-manage his or her medications. For the purposes of these rules, self-manage shall mean the resident is capable of maintaining possession and control of his or her medications, who does maintain possession and control of his or her medications, and self-administers his or her medications without creating an unreasonable risk to health and safety.

(g) A resident that cannot self-manage his or her own medication without creating an unreasonable risk to health and safety may be assisted with self-administration of medication by any assisted living facility staff, including staff members who hold no professional licensure provided:

1. The resident can and does identify his or her name on the medication package and has a reasonable understanding of the unit dose packaging system in use by the facility such that the resident could protect himself or herself from medication errors when unit dose packages are brought to the resident by facility staff. The resident shall have the opportunity to demonstrate his or her ability to correctly utilize the unit dose package system at every opportunity for medication use.

(6) **Assistance with self-administration of medication includes the following practices:**

(a) Reminding a resident that it is time to take a medication or medications, where such medications have been prescribed for a specific time of day, a specific number of times per day, specific intervals of time, or for a specific time in relation to mealtimes or other activities such as arising from bed or retiring to bed.

(b) Physically assisting a resident by opening or helping to open a container holding medications.

(c) Offering liquids to a resident to assist that resident in ingesting oral medications.

(d) Physically bringing a container of medication to a resident.

(7) **Assistance with self-administration of medications shall under no circumstances include any of the following practices:**

(a) Medication administration as defined in these rules.

(b) Determining the amount of medication to be given. If a medication is not available in unit dose packaging, unlicensed

facility staff may measure the prescribed amount of medication only under the direction and control of the resident, provided that the resident is capable of determining the amount of medication to be given.

(c) Giving a resident injections of any kind.

(d) Telling or reminding a resident that it is time to take a PRN, or as needed medication.

(e) Placing medications in a feeding tube.

(f) Giving enemas or suppositories.

(g) Crushing or splitting medications, provided that a physician has ordered a specific medication to be crushed or split and the resident is capable of self-managing his or her own medication or the resident is capable of medication self-administration with assistance and would be capable of crushing or splitting his or her own medications but for limitations of mobility or dexterity, may be assisted with crushing or splitting medications by unlicensed staff so long as the assistance provided is under the total control and direction of the resident. If the facility chooses to offer this assistance, the facility shall develop and implement a policy and procedure to ensure safe practices by facility staff.

(h) Mixing medications with food or liquids, provided that a physician has ordered a medication to be mixed with food or liquid and the resident is capable of self-managing his or her own medications or the resident is capable of medication self-administration with assistance and would be capable of mixing his or her own medications with food or liquid but for limitations of mobility or dexterity, may be assisted with mixing medications with food or liquid by unlicensed staff so long as the assistance provided is under the total control and direction of the resident. If the facility chooses to offer this assistance, the facility shall develop and implement a policy and procedure to ensure safe practices by facility staff.

(i) Assisting with self-administration of eye drops, eardrops, nose drops, inhalers, nebulizers, or topical medications, provided that a resident who is capable of self-managing his or her own medication or a resident who is capable of medication self-administration with assistance and who would be capable of self-administration of his or her own medications but for limitations of mobility or dexterity, may be assisted with eye drops, ear drops, nose drops, inhalers, nebulizers, or topical medications by unlicensed facility staff so long as the assistance provided is under the total control and direction of the resident. If the facility chooses

to offer this assistance, the facility shall develop and implement a policy and procedure to ensure safe practices by facility staff.

(j) All medications administered to residents and all medications self-administered with assistance of facility staff in an assisted living facility shall be contemporaneously recorded on a standard medication administration or medication assistance record. "Contemporaneously recorded" means recorded at the same time or immediately after medications are administered. The medication administration or medication assistance record shall include at least the following:

1. The name of the resident to whom the medication was administered or assisted.

2. The name of the medication administered or assisted.

3. The dosage of the medication administered or assisted.

4. The method of administration or assistance.

5. The site of injection or application, if the medication was injected or applied.

6. The date and time of the medication administration or assistance.

7. Any adverse reaction to the medication.

8. The printed name, initials, and written signature of the individual administering the medication or assisting the resident with self-administration of the medication.

(k) Medications kept under the control or custody of an assisted living facility shall be packaged by the pharmacy and shall be maintained by the facility in unit dose packaging. Medications kept under the control or custody of an assisted living facility that are not available in unit dose packaging must be packaged by the pharmacy and administered by a physician, R.N., or L.P.N. or self-administered with assistance under the total control and direction of the resident.

(l) Unless a resident can and does self-manage his or her own medications, an assisted living facility shall require each resident to use a single pharmacy. This does not apply to emergency pharmacy services. All residents need not use the same pharmacy that is used by other residents unless express policy of the assisted living facility provides otherwise and all residents are informed of such policy and provided a copy of such policy prior to or at the time of admission. The

assisted living facility shall require pharmacies used for medication supply for residents not self-managing their medications to review all ordered medication regimens for possible errors or adverse drug interactions and to advise the facility and the prescribing health care provider when these are detected.

(m) If controlled substances prescribed for residents of any assisted living facility are kept in the custody of the assisted living facility, they shall be stored in a manner that is compliant with state and federal laws, the requirements of the Alabama State Board of Pharmacy, and any requirements prescribed by the State Board of Health. At a minimum, controlled substances in the custody of the facility shall be stored using a double lock system, under proper temperature and humidity controls and permit only authorized personnel access. The facility shall maintain a system to account for all controlled substances in its possession. All other medications in the custody of the facility shall be stored using at least a single lock, under proper temperature and humidity controls and permit only authorized personnel access. This shall include medications stored in a resident's room when the staff and not the resident have access to the medications. Medications may be kept in the custody of an individual resident who can safely manage his or her medications. Such medications may be stored in a locked container accessible only to the resident and staff, or may be stored and secured in the resident's living quarters, if the room is single occupancy and has a locking entrance.

(n) Medication administration or medication assistance records and written physician orders for all over-the-counter drugs, legend drugs, and controlled substances shall be retained for a period of not less than three years. They shall be made available for inspection at reasonable times by residents, anyone authorized by the resident, and by the sponsors of residents.

(o) Labeling of Drugs and Medicines. All containers of prescribed medicines and drugs shall be labeled in accordance with the rules of the Alabama State Board of Pharmacy and shall include appropriate cautionary labels, such as, "Shake Well," or "For External Use Only."

(8) **Disposal of Medications.**

1. Controlled substances and legend drugs dispensed to residents, that are expired or unused because the medication is discontinued or because the resident dies, shall be destroyed within 30 days. Unused legend drugs that are not expired may be donated to a charitable clinic pursuant to Alabama Administrative Code, Chapter 420-11-11. Under no circumstances should expired, discontinued, or unused

medications be stored or housed in the facility beyond 30 days.

2. Medications of residents who are discharged or transferred to another facility shall be returned to the residents. The responsible party will sign a statement that these medications have been received. The statement shall list the pharmacy, prescription number, date, resident's name and strength of the medication, and the amount. This statement shall be maintained in a file for at least 3 years.

3. When medications are destroyed on the premises of the assisted living facility, a record shall be made and retained for at least 3 years. This record shall include: the name of the assisted living facility, the method of disposal, the pharmacy, the prescription number, the name of the resident, the name, strength, and dosage of the medication, and the amount and the reason for the disposal. This record shall be signed and dated by the individual performing the destruction and by at least one witness.

(9) **Oxygen Therapy.**

(a) A resident of an assisted living facility that requires oxygen therapy shall self-manage his or her own oxygen therapy or self-administer his or her own oxygen therapy with assistance of facility staff. A resident that cannot safely self-manage or self-administer his or her own oxygen therapy with assistance shall have oxygen administered only by a physician, R.N., or L.P.N. A resident that cannot direct his or her administration of oxygen and cannot be taught to direct his or her administration of oxygen shall be appropriately discharged.

(b) Oxygen use including date, time, rate, and proper function of the equipment shall be documented on the medication administration or medication assistance record at least once per shift unless oxygen therapy is self-managed by the resident.

(c) If a resident receives oxygen therapy in a facility:

1. All oxygen equipment, such as tubing, masks, and nasal cannula shall be maintained in a safe and sanitary condition.

2. All oxygen tanks shall be safely maintained and stored.

3. The facility shall require safe use of oxygen therapy. No smoking and appropriate precautionary signs shall be posted.

4. The facility shall ensure that each resident using oxygen therapy maintains an adequate supply of oxygen.

Refer to National Fire Protection Association (NFPA) 99 for oxygen storage requirements.

(10) **Storage of Medical Supplies.** First Aid Supplies. First aid supplies shall be maintained in a place readily accessible to persons providing personal care and services in the assisted living facility. These supplies shall be inspected at least annually to ensure their usability.

(11) **Admission and Retention of Residents.**

Residents admitted to and retained in assisted living facilities must meet all eligibility and continued stay requirements specified in these rules.

(a) Admission

1. An assisted living facility shall not admit any individual who:

(i) Is receiving or requires skilled nursing care.

(ii) Has a wound that requires care beyond basic first aid.

(iii) Lacks the ability to make decisions related to personal safety.

(iv) Cannot direct his or her care.

(v) Has behaviors that may be dangerous to themselves or others.

(vi) Cannot safely self-manage medications or self-administer medications with assistance.

(vii) Is receiving or in need of hospice services.

(viii) Cannot safely reside in the facility unless his or her egress from the facility is restricted.

(ix) Is diagnosed with acute infectious pulmonary disease, such as influenza, or active tuberculosis, or with other diseases capable of transmission to other individuals through normal person-to-person contact.

(b) Retention

1. An assisted living facility shall not allow any resident to return to the assisted living facility from a higher level of care if that resident requires care that exceeds the level of care the facility is licensed to provide or the facility is capable of providing.

2. An assisted living facility shall not retain a resident that has symptoms or behaviors that infringe on the rights or safety of residents currently in the facility.

3. Residents who have unmanageable behaviors or behaviors that may be dangerous to themselves or others shall not be retained in an assisted living facility.

4. An assisted living facility shall not retain a resident who requires medical or skilled nursing care which is expected to exceed 90 days unless:

(i) The individual is capable of performing and does perform all tasks related to his or her own care; OR

(ii) The individual is incapable of performing some or all tasks related to his or her own care due to limitations of mobility or dexterity BUT the individual has sufficient cognitive ability to direct his or her own care AND the individual is able to direct others and does direct others to provide the physical assistance needed to complete such tasks, AND the facility staff is capable of providing such assistance and does provide such assistance. If the facility chooses to offer this assistance, the facility shall develop and implement a policy and procedure to ensure safe practices by facility staff.

5. If a resident of an assisted living facility is diagnosed with a terminal illness other than dementia and requires hospice care, the resident may be admitted to a properly licensed and certified hospice program. A resident receiving hospice care may remain in the facility beyond 90 days. If the facility is unable or becomes unable to meet the needs of a resident receiving hospice care, or if a resident receiving hospice care requires care beyond what the facility may lawfully provide pursuant to this section, then the facility shall promptly make arrangements to discharge or transfer the resident to a safe and appropriate placement in accordance with the discharge procedures and prearranged plan required by these rules for assisted living facilities.

The facility would in all cases remain responsible for ensuring the appropriate delivery of care and must take

all necessary steps to ensure that care needed by a resident is delivered to the resident.

6. All skilled services provided in the facility, such as but not limited to wound care or insertion of a urinary catheter, shall be provided by the staff of properly licensed or certified agencies. Skilled services shall not be delegated to facility staff.

7. Residents that develop acute infectious pulmonary disease, such as active tuberculosis, or other diseases capable of transmission to other individuals through normal person-to-person contact shall be immediately transferred to an appropriate level of care until certified by a physician to be free of a contagious condition.

8. No assisted living facility shall be operated in whole or in part in a manner that prevents free and unhindered egress from the facility by any of its residents.

9. An assisted living facility shall not retain any resident who cannot safely reside in the facility unless his or her egress from the facility is restricted.

(12) **Resident Transport.** If a resident is unable to ride in an upright position or if such resident's condition is such that he or she needs observation or treatment by an emergency medical service provider (EMSP), or if the resident requires transportation on a stretcher, gurney, or cot, the facility shall arrange or request transportation services only from providers who are ambulance service operators licensed by the State Board of Health. If such resident is being transported to or from a health care facility in another state, transportation services may be arranged with a transport provider licensed as an ambulance service operator in that state. For the purposes of this rule, an upright position means no more than 20 degrees from vertical.
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420-5-4-.07 **Food Service.**

(1) **General.**

(a) Direction and Supervision. The services of a dietitian shall be provided to any resident of an assisted living facility who requires a therapeutic diet. Congregate assisted living facilities shall be under the direction and supervision of a full or part-time professionally qualified dietitian or a consulting dietitian that is licensed in the State of Alabama. Responsibility for the supervision of dietary services shall be delegated to a responsible employee who is a graduate of a Dietary Managers course or has completed an approved course that includes basic sanitation. The facility shall provide meals, fluids, and snacks to the residents that meet the Dietary References Intakes from the basic food groups. The meals shall be of the quality and quantity necessary to meet the residents' needs, and must be in accordance with the recommended dietary allowances of the Food and Nutrition Board of the National Research Council, National Academy of Sciences.

(2) **Food Handling Procedures.**

(a) Dish and Utensils Washing, Disinfection, and Storage.

1. Wash water shall be changed with sufficient frequency to avoid gross contamination, and final rinse water shall be kept clean and clear.

2. Hand washed repeated service and multi-service utensils and dishes, after washing and rinsing, shall be sanitized by either of the following methods:

(i) Utensils and dishes shall be completely immersed for a period of not less than 30 seconds in water that is at least 171 degrees Fahrenheit (pouring scalding water over utensils and dishes does not meet this requirement); or

(ii) A cold water sanitizer. A sanitizing solution shall be used in accordance with manufacturer's instructions. Utensils and dishes shall be completely immersed for a period of not less than 10 seconds in a clean solution containing not less than 50 ppm, and not more than 200 ppm, of available chlorine bleach, or 30 seconds in 12.5 ppm of iodine or the amount of time set by the manufacturer in a 200 ppm quaternary ammonium solution. Water temperature must be at least 75 degrees Fahrenheit. Water temperatures and chemical concentrations shall be monitored and documented prior to dishwashing. A record of each test shall be maintained for at least 3 months.

3. Dishes and utensils shall be allowed to air dry.

4. After washing, rinsing, sanitizing, and air-drying, all repeated use service ware (utensils and dishes) shall be stored in a clean, dry place that is protected from pests, dust, splash, and other contaminants. Utensils shall be handled in such a way as to prevent contamination from hands and clothing.

5. The results from the use of dishwashing machines shall be equivalent to those obtained from the method outlined above, as documented in material provided from the manufacturer and kept on file at the facility.

(b) Ice. Crushed or chipped ice shall be protected from splash, drip, and hand contamination during storage and service. The ice scoop may be stored in the ice bin in a manner to prevent ice from coming into contact with the handle, or it may be stored in an airtight container outside the ice bin.

(c) Protection of Food from Contamination.

1. Food and food ingredients shall be stored, handled, and served so as to be protected from pests, dust, rodents, droplet infection, unsanitary handling, overhead leakage, sewage back flow, and any other contamination. Sugar, syrup, and condiment receptacles shall be provided with lids and shall be kept covered when not in use.

2. Medications, biologicals, poisons, detergents, and cleaning supplies shall not be kept in the refrigerator or in other areas used for storage of food.

3. Food shall not be stored on the floor. All food and food ingredients stored on shelving must be placed on shelving that is at least 6 inches above the floor.

4. Refrigerators shall maintain a maximum temperature of 41 degrees Fahrenheit. Freezers shall be maintained at a maximum temperature of 0 degrees Fahrenheit. Thermometers shall remain in refrigerators and freezers at all times.

5. All leftover foods shall be labeled and dated with a “use by date”, so that it may be consumed or discarded by that date, which is no more than 3 days from the date it was prepared.

6. All food products shall be used by the manufacturer’s indicated date or discarded.

7. Food shall be prepared either in the licensed facility or another location even when that location is not part of the licensed facility. All food preparation areas used by the facility shall be subject to the same inspections

as though part of the licensed facility. The licensed facility is responsible to ensure adequate equipment and measures are used to ensure that food is not contaminated in transport and that foods that are transported are held and served at the appropriate temperatures at all times.

8. Hot food shall be maintained at a minimum of 135 degrees Fahrenheit and cold foods at a maximum 41 degrees Fahrenheit.

9. Frozen food items (raw and cooked) shall be thawed under refrigeration or under running water prior to preparation. Frozen food may also be thawed as part of the cooking process when indicated by package directions. Raw meats shall be stored below and away from vegetables, fruits, and other foods to prevent contamination (meat juices dripping on other foods).

10. Laundry shall not be brought through the food preparation or service area.

(d) Storage and Service of Milk and Ice Cream.

1. Milk and fluid milk products shall be served only from the original containers in which they were received from the distributor. This shall not apply to cream for coffee, cereals, and milk for milk drinks which may be dispensed from a readily cleanable container approved for such use.

2. Milk and fluid milk products shall be stored in such a manner that bottles or containers, from which the milk or milk product is to be poured or drunk, will not become contaminated from drip or contact with foods. Milk shall be maintained and stored at a maximum temperature of 41 degrees Fahrenheit and shall not be served at a temperature warmer than 45 degrees Fahrenheit unless specifically requested to be served at a warmer temperature by a resident.

3. Contaminating substances shall not be stored with or over open containers of ice cream. Ice cream dippers, spatulas, and other serving utensils shall be cleaned between uses.

(e) Kitchen Garbage and Trash Handling.

1. Kitchen garbage and trash shall be placed in suitable containers with tight-fitting lids and properly stored pending removal. Kitchen garbage and trash shall not be allowed to accumulate in the kitchen and shall be removed from the premises at frequent intervals.

2. After being emptied, all garbage cans and trash cans shall be washed and dried before reuse.

(f) Employees' Cleanliness.

1. Employees engaged in the handling, preparation, and serving of food shall wear clean clothing at all times. Employees shall wear hair restraints, for example, hairnets, headbands, caps, or other adequate means to prevent contamination of food from hair. Employees whose duties include contact with residents shall change clothing or wear a clean covering over clothing before handling, preparing, or serving food.

2. Employees handling food shall wash their hands thoroughly before starting work each day, immediately after contact with any soiled matter, and before returning to work after each visit to the rest room.

3. Street clothing not worn by the employee shall be stored in lockers, dressing rooms, or closets designated for staff use.

(g) Live Fowl or Animals. Live fowl or animals shall not be allowed in the food service area.

(h) Smoking and Spitting. Smoking, other use of tobacco products, and spitting within the food service area shall be prohibited for all staff, residents, and visitors.

(i) Dining in Kitchen. Dining in the kitchen shall not be permitted in congregate assisted living facilities.

(j) Paper for Food Wrapping. Only new paper, foil, or plastic wrap shall be used for wrapping of foods.

(k) Laundering of clothing shall not be permitted in food preparation or service areas.

(3) **Dietary Service.**

(a) Number of Meals. No fewer than three meals shall be provided each 24 hours. Food service shall be provided in a resident's room during temporary illness if necessary. The diet shall be well-balanced, palatable, properly prepared, and sufficient in quantity and quality to meet the nutritional needs of the residents in accordance with Dietary Reference Intakes of the Food and Nutrition Board of the National Research Council, National Academy of Sciences. The food must be adapted in type and preparation to the habits, preferences, and physical abilities of the residents.

(b) Timing of Meals. A time schedule for serving meals to residents and personnel shall be established. Meals shall be served approximately 5 hours apart with no more than 14 hours between the evening meal and breakfast. The time schedule of meals shall be posted with the menu. The facility shall make evening snacks available after service of the evening meal. The facility shall provide fluids throughout the day and shall make between-meal nourishment (snacks) available.

(c) Menu. The menu shall be planned and written at least 1 week in advance. The current week's menu shall be posted in the food service area and shall be kept on file for the following 2 weeks. For any resident with a physician's order for a therapeutic diet, or by a dietitian licensed by the Alabama Board of Examiners for Dietetics and Nutritionists as authorized by the medical director, the facility shall have a copy of the diet and the facility shall document the adjustment of its menu to accommodate the resident's needs.

(d) Alternate food selections or substitutes shall be made available to all residents.

(e) A facility shall not obtain food from charitable organizations. A facility shall not avoid serving a meal by sending or transporting residents to missions, soup kitchens, or other charitable facilities for meals.

(f) The amount of food on hand shall be sufficient to serve 3 meals per day to all residents for 3 days. Non-perishable food and potable water shall be maintained in the facility in sufficient quantity to serve 3 meals per day to all residents for 3 days.

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History: iled November 20, 1991. **Repealed and New Rule:** Filed October 18, 2001; effective November 22, 2001. **Amended:** Filed March 21, 2007; effective April 25, 2007. **Repealed and New Rule:** Filed February 20, 2019; effective April 7, 2019. **Amended:** Published March 31, 2022; effective May 15, 2022.

420-5-4-.08 **Physical Facilities.**

(1) **Administrative Facilities.** Each assisted living facility shall provide office space(s) or administrative office(s).

(a) As a minimum, the administrative office(s) shall be provided with a desk, file cabinet, and related office equipment and supplies.

(b) Congregate assisted living facilities shall provide separate rooms for administrative and office purposes.

(c) Communication Facilities. Each assisted living facility shall have an adequate number of telephones to summon help in case of fire or other emergency, and these shall be located so as to be quickly accessible from all parts of the building.

(d) Fire Protection Arrangements. The facility shall have arrangements for fire protection with the nearest available fire department for assistance in case of fire. Each facility shall have a monitoring service for its fire alarm system.

(e) Center Staff Station. New Group and Congregate facilities, and existing Group and Congregate facilities that are enlarged or renovated to accommodate bed increases, shall have a centrally located staff station with call for assistance and fire alarm system annunciation panels.

(2) **Physical Facilities (Drugs and Medicines).**

(a) Medicine Storage. There shall be a medicine cabinet or storage area in the facility for safekeeping and to avoid contamination of individual medicine and drugs. The medicine storage area shall:

1. Be provided with lock and key and be kept locked when not being used.

2. Have adequate storage space with shelving.

3. Be adequately lighted with artificial illumination.

4. Have proper temperature and humidity levels.

(b) Refrigerator. A refrigerator, capable of being secured, and dedicated to medicine and drug storage, shall be required for medicines and drugs which must be refrigerated.

(3) **Resident's Physical Facilities.**

(a) All resident bedrooms shall have an outside window and shall not be below grade. Window areas shall not be less than one-eighth of the floor area, unless proper lighting, ventilation, and air-conditioning are provided. All assisted living facilities submitted for plan review on or after October 5, 2001, shall ensure that each resident bedroom has at least one outside window with a minimum of 20 feet of clear space to any structure, measured perpendicularly. A peripheral view of the exterior shall be provided from newly constructed bedrooms.

(b) Residents bedrooms shall be located so as to minimize the entrance of odors, noise, and other nuisances.

(c) Residents bedrooms shall be directly accessible to a main corridor or through no more than one intervening sitting room within the bedroom suite. In no case shall a resident bedroom be used for access to another resident room.

(d) Group and Congregate resident bedrooms shall be individually and consistently identified, (numbered, lettered, or named).

(e) Bedroom Size. As a minimum, floor area shall be as follows:

1. Private bedroom without sitting area: 80 square feet. Double bedroom without sitting area: 130 square feet.

2. Private bedroom with sitting area: 160 square feet. Double bedroom with sitting area: 200 square feet.

3. Bedrooms shall accommodate no more than two residents.

4. Facilities licensed prior to December 25, 1991, are exempt.

(f) Bedroom furnishings. The resident has the right to furnish his or her room as he or she so chooses, within the facility's guidelines. If the facility offers to provide some or all of the furniture, as a minimum, bedrooms shall contain the following for each resident:

1. A suitable built-in clothes closet or wardrobe with shelving space and clothing pole.

2. A bed with good springs and mattress and sufficient clean bedding. In no case shall a cot or rollaway bed be provided for residents.

3. A dresser or chest of drawers.

4. A bedside table and bed lamp.

5. At least one comfortable chair, preferably an armchair, recliner, or rocker.

6. Window shades, venetian blinds, or other suitable provisions for closing the view from the window.

7. Adequate number of electrical outlets shall be provided. Extension cords, U.L. approved with overload protection capability may be used for light duty appliances and shall not pose a hazard to residents.

8. A mirror in the bedroom or bedroom suite, unless contraindicated by a resident's condition.

(g) Toilet and Bathing Facilities. As a minimum, the following toilet and bathing facilities shall be provided.

1. For all residents' bedrooms, which do not have adjoining toilet and bathing facilities, plumbing fixtures shall be provided within the resident sleeping area according to the following ratio:

(i) Bathtubs or showers one per eight beds.

(ii) Lavatories one per six beds.

(iii) Toilets one per six beds.

2. When a semi-private bedroom is provided, the facility shall provide a means of privacy for dressing, bathing, and personal care. When common area bathrooms are provided, there shall be separation by partitions, curtains, or screens to provide for privacy in the baths and toilets.

3. Non-skid mats or equal surface treatment and safety hand grips or grab bars shall be provided in tubs, showers, and at each toilet fixture. Grab bars shall be installed in new Group and Congregate facilities to conform to the currently adopted building code.

(h) All essential mechanical, electrical, and resident care equipment shall be clean and maintained in safe operating condition.

(i) Bed and bath linens shall be clean and in good condition.

(j) Housekeeping and maintenance shall provide services necessary to maintain a sanitary, orderly, and comfortable interior.

(4) **Food Service Facilities.**

(a) Floors. Floors in food service areas shall be of such construction as to be easily cleaned, sound, smooth, non-absorbent, without cracks or crevices, and shall be provided with approved and conveniently located facilities for the disposal of floor wash water.

(b) Walls and Ceilings. Walls and ceilings of food service areas shall be of tight and substantial construction, and smoothly finished. The walls and ceilings shall be without horizontal ledges and shall be washable up to the highest level reached by splash and spray. Roofs and walls shall be maintained free of leaks. All openings to the exterior shall be provided with doors or windows which prevent the entrance of rain or dust during inclement weather.

(c) Screens or Outside Openings. Openings to the outside shall be effectively screened, or suitable provisions made equal to screening (such as fly fans). Screen doors shall be equipped with self-closing devices.

(d) Lighting. The kitchen, dishwashing area and the dining room shall have adequate light.

(e) Ventilation. Vent/exhaust hoods, vented to the outdoors, shall be provided over cooking surfaces to aid in removing cooking odors. Existing recirculating vent hoods in Family facilities may remain in use when filters are cleaned or replaced regularly to prevent excess grease accumulation. Group assisted living facilities with residential stoves may use a residential hood sized for the stove. Commercial exhaust hoods shall be installed when commercial cooking equipment is used. Congregate facilities shall use a commercial exhaust hood system.

(f) Employee Toilet Facilities. Toilet rooms, if provided, shall not open directly into any room or space in which food is prepared, stored, displayed, or served, nor into any room in which utensils are washed or stored. Toilet rooms shall include a lavatory and shall be well lighted and ventilated.

(g) Hand Washing Facilities. Each Group and Congregate assisted living facility shall provide a hand washing lavatory in the kitchens which shall be equipped with a soap dispenser and a supply of soap, disposable towels, and hot and cold running water through a mixing valve or combination faucet. The use of a common towel and common bar soap is prohibited. Hands shall not be washed in sinks where food is prepared. Existing Group and Congregate facilities that enlarge or renovate kitchens shall install a hand wash sink.

(h) Refrigeration Facilities. Adequate refrigeration facilities, automatic in operation for the storage of perishable foods shall be provided. Refrigeration shall be maintained at 41 degrees Fahrenheit or less. All refrigerators shall be provided with thermometers. All refrigerators shall be kept clean.

(i) Equipment and Utensil Construction. Equipment and utensils, except single service utensils, shall be so constructed as to be easily cleaned and shall be kept in good repair. No cadmium plated, lead, or readily corrodible utensils or equipment shall be used.

(j) Separation of Kitchen from Resident Rooms and Sleeping Quarters. Any room used for sleeping quarters shall be separated from the food service area by a solid wall with no direct openings. Sleeping accommodations shall not be permitted within the food service area.

(k) Clean Rooms. Floors, walls, and ceilings of rooms in the food service area shall be clean and free of an accumulation of rubbish, dust, grease, dirt, etc.

(l) Clean Equipment. Equipment in the food service area shall be clean and free of dust, grease, dirt, etc.

(m) Clean Counters, Tables, Tablecloths, and Napkins. Tables and counters, which are used for food service, shall be kept clean. Tablecloths and cloth napkins shall be laundered after each use.

(n) Location and Space Requirements. Food service facilities shall be located in a specifically designated area and shall include the following rooms and space: kitchen, dishwashing, food storage, and dining room.

(o) Equipment. Minimum equipment in the kitchen shall include the following:

1. Range. In a Family or Group assisted living facility, a residential use range is permitted. A Congregate assisted living facility shall have a heavy-duty range suitable for institutional use with double oven, or equivalent.

2. Refrigerator. A Family or Group assisted living facility may use a residential refrigerator. A Congregate assisted living facility shall have a heavy duty refrigerator suitable for institutional use.

3. Fire extinguisher. A five-pound type BC for residential hoods, and K type for commercial hoods.

4. Dishwashing. The dishwashing equipment for Family and Group assisted living facilities shall be either residential type using cold water sanitizers or commercial type with a booster water heater. Dishwashing equipment for all Congregate assisted living facilities shall be commercial type using a booster water heater or an automatic dispensing sanitizing chemical system.

5. A three-compartment sink with a booster heater or chemical sanitizing system for the third compartment shall be provided in Congregate assisted living facilities.

6. Garbage cans with cover.

(p) Food Storage. A well-ventilated, cool food storage room, pantry, or cabinets shall be provided. Adequate shelving, bins, suitable cans, and raised platforms shall be provided and kept clean. Perishable food shall be stored at least six

inches above the floor. The storeroom shall be of such construction as to prevent the invasion of rodents and insects, the seepage of dust and water, leakage, or any other source of contamination.

(q) Dining Room. A resident dining room, or rooms, shall be provided which is large enough to seat not less than 100 percent of the bed capacity.

(r) Water Heating Equipment. Equipment for heating an ample supply of water, under pressure, for all washing purposes shall be provided. Hot water shall be piped to all hand-washing facilities, and to each compartment of all dishwashing and laundry sinks. Water heaters shall be automatic type.

(5) **Recreational.**

(a) Living and Recreational Room(s). Each assisted living facility shall provide adequate living and recreational room(s) for group activities, and for social events, such as holiday celebrations, without crowding. The following shall be included:

1. Small living room(s) of a personal or family type so that residents may read or visit with relatives and friends in private. This requirement may be met when private bedrooms are large enough for use as small sitting rooms and are furnished for this use. Furniture for small living rooms and sitting spaces in bedrooms shall include clean comfortable chairs, tables, and lamps of good repair.

2. Central living or recreational room in which group activities can take place. This requirement may be met by combining the resident dining room with a central living or recreational room.

(i) The usual type of small family dwelling which has a central living room, dining room, and den or enclosed sun porch, may meet the requirements in facilities classified as Family assisted living facilities.

(ii) The living and recreational room shall be furnished according to the activities offered. Furniture shall include clean comfortable chairs, tables, and lamps of good repair.

(b) Yards and Gardens. Each assisted living facility shall provide safe space for outside activities.

(c) Hobbies or Leisure Activities. Each assisted living facility shall provide adequate space(s) for hobbies and leisure activities.

Author: Victor Hunt, Kelley Mitchell
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420-5-4-.09 **Laundry.**

(1) **General.**

(a) Direction and Supervision. Responsibility for laundry services shall be assigned to an employee.

(b) Linen. Linens shall be handled, stored, processed, and transported in a manner consistent with generally accepted infection control practices.

(2) **Location and Space Requirements.**

(a) Each assisted living facility shall have laundering facilities unless commercial laundries are used. An on-site laundry shall be located in a specifically designated area, and there shall be adequate rooms and spaces for sorting, processing, and storage of soiled material. Laundry rooms in Group and Congregate facilities shall not open directly into resident rooms or food service areas. Domestic washers and dryers which are for the exclusive use of residents may be provided in resident areas, provided they are installed in such a manner that they do not cause a sanitation problem or offensive odors.

(b) Each assisted living facility shall have a system in place to keep clean linen and dirty linen separated and to prevent the reuse of dirty linen before it is cleaned. Dirty linens and clothing shall not be stored, even temporarily, in the area set aside for clean linen.

(c) Ventilation of Laundry. Provisions shall be made for proper mechanical ventilation of the laundry, if located within the assisted living facility. Provisions shall also be made to prevent the re-circulation of air in commercial equipment laundries into the heating and air conditioning systems outside the laundry area.

(d) Lint Traps. Adequate, effective, and clean lint traps shall be used in all dryers.

Author: Victor Hunt
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420-5-4-.10 Sanitation And Housekeeping.

(1) **Sanitation.**

(a) Water Supply.

1. If at all possible, all water shall be obtained from a public water supply. If it is impossible to connect to a public water system, the private water supply shall meet the approval of the local County Health Department.

2. Water under pressure of not less than 15 pounds per square inch shall be piped within the building to all sinks, toilets, lavatories, tubs, showers, and other fixtures requiring water. Tubs, showers, sinks, lavatories, and other fixtures used by residents shall have hot water supplied. Hot water accessible to residents shall in no case exceed 110 degrees Fahrenheit.

(b) Disposal of Liquid and Human Wastes.

There shall be installed within the building a properly designed waste disposal system, connecting to all fixtures to which water under pressure is piped.

2. All liquid and human waste, including floor wash water and liquid waste from refrigerators, shall be disposed through trapped drains into a public sewer in localities where such system is available.

3. In localities where a public sanitary sewer is not available, liquid and human waste shall be disposed through trapped drains into a sewage disposal system approved by the local County Health Department. The sewage disposal system shall be of a size and capacity based on the number of residents and personnel housed and employed in the institution. Where the sewage disposal system is installed at an existing facility prior to granting of a license, it shall be inspected and approved by the local County Health Department.

(c) Premises. The premises shall be kept neat and clean. The property shall be free of rubbish, weeds, ponded water, or other conditions that may create a health, safety, or sanitation hazard.

(d) Control of Insects, Rodents and Other Pests. Each facility shall be kept free of ants, flies, roaches, rodents, and other pests. Proper and lawful methods for their eradication or control shall be used. Droppings shall be evidence of infestation by pests.

(e) Toilet Room Cleanliness. Floors, walls, ceilings, and fixtures of all toilet rooms shall be kept clean and free of objectionable odors. These rooms shall be kept free of an accumulation of rubbish, cleaning supplies, and toiletry articles. The use of a common towel and common bar soap is prohibited.

(f) Garbage Disposal.

1. Garbage must be kept in water-tight suitable containers with tight-fitting covers. Garbage containers must be emptied at frequent intervals and shall be thoroughly cleaned and aired before using again.

2. Garbage and waste shall be disposed of in accordance with local and state regulations.

(g) Control of odors. The facility shall be free of objectionable odors.

(2) **Housekeeping and Physical Plant Maintenance.** The facility must provide a safe, functional, sanitary, decent, and comfortable environment for residents, staff, and the public.

(a) Equipment and Supplies. The home shall maintain an adequate quantity of housekeeping and maintenance equipment and supplies.

(b) Bathtubs and Lavatories. Bathtubs and lavatories shall be kept clean and in proper working order, and shall not be used for laundering.

(c) Resident Bedrooms. Resident bedrooms shall be cleaned and dusted as often as necessary to maintain a clean, attractive appearance.

(d) General Storage.

1. Broken beds, extra mattresses, mop buckets, and dust rags shall not be kept in hallways, closets, corners, or occupied resident rooms. Such items must be stored neatly and orderly in designated storage rooms.

2. The use of attics for storage of combustible materials shall be prohibited unless protected by an automatic sprinkler system and then only in small quantities so as not to create a hazardous condition.

3. Basements used for storage shall meet acceptable standards for storage and shall be designed and constructed in a manner that protects against fire hazards.

4. Flammable materials such as gasoline, motor fuels, lighter fluid, turpentine, acetone, and oil-based paint shall not be stored in the facility. Unless prohibited by a facility's own policies, however, a cognitively intact resident who uses lighter fluid to fill a personal cigarette lighter, or one who uses flammable materials such as paint or glue in connection with a personal hobby, may store small quantities of those materials in a safe and secure manner within his or her own room.

5. Poisonous or External Use Substances. Facility cleaning supplies and poisons shall be attended at all times or shall be kept in a secure area.

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420-5-4-.11 **Fire And Safety.**

(1) **General.**

(a) Fire Safety and Emergency Plan. All assisted living facilities shall maintain a current written fire safety, relocation, and evacuation plan. In facilities which do not have multiple smoke compartments, an evacuation floor plan shall be appropriately posted in a conspicuous place.

(b) Fire Drills. Fire drills shall be conducted at least once per month in all facilities at varying times and days and quarterly on each shift of Group and Congregate facilities. All fire drills shall be initiated by the fire alarm system. The drills may be announced in advance to the residents. The drills shall involve the actual evacuation of residents to assembly areas in adjacent smoke compartments or to the exterior as specified in the emergency plan to provide staff and residents with experience in exiting through all exits required by the currently adopted Life Safety Code. Written

observations of the effectiveness of the fire drill plan shall be assessed monthly, filed, and kept for at least three years.

(c) Fire Drills During Resident Sleeping Hours. When drills are conducted between 9 PM and 6 AM, a coded announcement shall be permitted to be used instead of the normal audible fire alarm signals. These drills may be conducted without disturbing sleeping residents, by using simulated residents or empty wheelchairs.

(d) Roller latches are prohibited on doors separating corridors from adjacent spaces.

(e) If alcohol-based hand rub dispensers are used in the facility, the dispensers must be installed in a manner that:

1. Minimizes leaks and spills.

2. Adequately protects against inappropriate access.

3. Complies with the requirements of the currently adopted *Life Safety Code*.

(f) Fire Alarm and Sprinkler System.

1. Fire Alarm System. Where fire alarm systems are required, a corridor smoke detection system shall be installed on each floor, including areas open to the exit access corridor, to comply with NFPA 72, connected to the facility's fire alarm system. In lieu of corridor smoke detection, smoke detectors connected to the building fire alarm system may be installed in each resident's room, open areas, and at smoke doors (except that corridor smoke detection shall not be deleted when its use is dictated by other requirements).

2. Fire alarm and sprinkler system outages of more than 4 hours require evacuation of the facility or the establishment of a continuous fire watch. The fire watch procedure must be coordinated with the Department and the local Fire Marshal. Outages and fire watch documentation shall be reported to the Department within 12 hours or no later than the next duty day, and shall be corrected expeditiously.

3. The fire alarm system and the sprinkler system shall be inspected by licensed, trained, and qualified personnel at least semiannually for compliance with the respective codes. Inspection and testing reports shall be maintained in the facility for a period of at least 3 years.

Author: Victor Hunt
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420-5-4-.12 **Physical Environment.**

(1) **Buildings and Grounds.**

(a) The assisted living facility including site and grounds must be constructed, arranged, and maintained to ensure the safety of the residents and building occupants.

(b) Building Classification.

1. Family assisted living facilities shall be planned to serve the types of residents to be admitted and shall comply with the *Life Safety Code* Chapter for One- and Two-Family Dwellings, and shall comply with Sections (1), (2), (3), and (4) of AAC Rule 420-5-4-.12.

2. Group assisted living facilities shall be planned to serve the residents to be admitted and shall comply with Section (1), (2), (3), and (5) of AAC Rule 420-5-4-.12.

3. Congregate assisted living facilities shall be planned to serve the residents to be admitted and shall comply with Sections (1), (2), (3), (6) of AAC Rule 420-5-4-.12.

4. Renovation within the exterior walls of an assisted living facility shall in no case be of such nature as to lower the character of the structure below the applicable building requirements for the classification of license held by the assisted living facility.

5. Dually Licensed Facility.

(i) For the purposes of meeting physical facility and building code requirements, a building housing both a regular assisted living facility and a specialty care assisted living facility shall be classified as a Group or Congregate facility in accordance with the combined licensed bed capacities of both facilities. For the purposes of meeting resident care and administrative requirements, the specialty care assisted living facility and the regular assisted living facility shall be separately considered, and each shall be classified as a Congregate facility or a Group facility in accordance with the licensed bed capacity of each, and the determination shall not be based on their combined bed capacity. See Rule

420-5-20 for Specialty Care Assisted Living Facilities and requirements.

(ii) When a facility has a portion of a building licensed for specialty care residents, instead of the entire facility, the sleeping, bathing, dining, and activity areas shall be in a distinct and separate unit within the building, licensed for specialty care assisted living. Administrative, kitchen, and service areas may be shared between the two licensed portions.

(c) Location. All assisted living facilities established or constructed shall be located so that they are free from undue noises, smoke, dust, or foul odors. New assisted living facilities shall be located at least 1,000 feet from railroads, freight yards, or disposal plants. This distance can be reduced to 500 feet when facility is separated by a boarded fence at least six feet high. This rule shall not prevent enlargement or expansion of existing assisted living facilities.

(d) Local Restrictions. The location and construction of all assisted living facilities shall comply with local zoning, building, and fire ordinances. Evidence to this effect, signed by local fire, building, or zoning officials, may be required as a condition of licensure. If a facility is to be located in an area that does not have any zoning, building, or fire authority review, a letter stating such shall be obtained from the local county commission through official board action or from the office of the probate judge.

(e) Assisted living facilities shall be located on publicly maintained streets or roads, and connected with driveways which shall be kept passable at all times.

(f) Occupancy. No part of an assisted living facility may be rented, leased, or used for any commercial purpose not reasonably necessary for the residents of the facility or the residents of other licensed facilities on the same campus. A campus consists of the premises occupied by the licensed facility together with all parcels or property that the governing authority owns or has the legal right to occupy, and which are separated from the remainder of the campus only by a public right of way. Services provided within the facility shall be limited to serving the residents of facilities on the campus that are licensed by the Department. The Department shall approve all plans for occupancy.

(g) Basements. The basement shall be considered as a story if it meets criteria established by the codes for a story.

(h) The assisted living facility must maintain adequate furnishings, fixtures, supplies, and equipment for its services.

(i) Facilities, supplies, and equipment must be maintained in safe operating condition.

(j) There must be proper ventilation, light, and temperature controls in pharmaceutical, food preparation, and other appropriate areas.

(2) **Submission of Plans and Specifications.**

(a) New Facilities, Additions, and Alterations. Plans and specifications shall be submitted for review and approval to the Department, for any building that is intended to contain an assisted living facility, and for additions and alterations to existing facilities. Submissions shall be in accordance with Alabama Administrative Code 420-5-22, "Submission of Plans and Specifications for Health Care Facilities."

(3) **Inspections.** The State Board of Health and its authorized representatives shall have access to all facilities for inspection.

(4) **Remodeling.**

(a) The remodeled area of existing facilities shall be upgraded to comply with the current requirements for new construction.

(b) Any remodeling to existing facilities shall not diminish the level of safety which existed prior to the start of the work.

(5) **General Building Requirements - Family, Group, and Congregate.**

(a) Structural Soundness and Repair. The building shall be structurally sound, free from leaks and excessive moisture, in good repair, and painted with sufficient frequency to be reasonably attractive inside and out. The interior and exterior of the building shall be kept clean and orderly.

(b) Temperature to be Maintained. The facility shall maintain a comfortable temperature. A comfortable range is between 71-81 degrees Fahrenheit.

(c) Lighting. Each resident's room shall have artificial light adequate for reading and other uses as needed. All entrances, hallways, stairways, inclines, ramps, cellars, attics, storerooms, kitchens, laundries, and service units shall have sufficient artificial lighting to prevent accidents and

promote efficiency of service. Night lights shall be provided in all hallways, stairways, and bathrooms.

(d) Screens. All screen doors and operable windows shall be equipped with tight-fitting, full-length insect screens. Screen doors shall be equipped with self closing devices.

(e) Emergency Lighting.

1. All assisted living facilities shall provide emergency artificial lighting to adequately illuminate halls, corridors, kitchens, dining areas, and stairwells in case of electrical power failure. As a minimum, dry cell battery-operated lighting shall be provided to light such spaces.

2. Emergency lighting must provide illumination in accordance with the currently adopted Life Safety Code for at least 90 minutes.

(f) Floors.

1. All floors shall be level, smooth and free of cracks, and finished so as to be easily kept clean. The basic requirement for floor finishes shall be wall-to-wall with such finishes as paint, stain, sealer, carpet, sheet vinyl, vinyl tile, hard tile, or other appropriate floor finish.

2. Any differences in floor levels shall not prevent a resident from navigating safely throughout the facility.

(g) Walls and Ceilings. All walls and ceilings shall be of sound construction with an acceptable surface and shall be kept clean and in good repair.

(h) Windows. Operable windows shall be so constructed and maintained so that they fit snugly, and are capable of being opened and closed easily.

(i) Ceiling Height. Each room occupied by residents shall have a ceiling height of eight feet or more. Existing facilities with ceiling heights less than eight feet shall be acceptable when the height complies with the codes.

(j) Handrails. If handrails are installed in halls or corridors, the handrails shall be mounted at 30-36 inches above the floor and returned to the wall at each end.

(k) Stairways. Stairways shall be well lighted, kept in good repair, and have handrails. Open space under stairs shall not be used for storage purpose. All walls and doors under stairs shall meet the same fire rating as the stairwell.

(l) Doors.

1. In each new assisted living facility, doors of resident bathrooms connected to resident bedrooms shall swing into the bedroom.

2. Bedroom and bathroom doors may be equipped with hardware that will permit a resident to lock himself within the room, provided a master key is readily accessible for the staff at a central location.

3. Resident bedroom and other exit access doors in each assisted living facility shall be at least three feet wide.

Bedroom doors in Family assisted living facilities shall not be less than 32 inches wide.

4. Exterior egress doors except the main entry/exit door, may be equipped with a delayed egress locking system installed in accordance with NFPA 101. Other special locking arrangements are permitted only in specialty care assisted living facilities.

5. Exit doors swinging outward shall swing out over a landing having a minimum length and width equal to the door's width at the same level as the floor level, except existing doors shall not have more than a four inch step down. Exit doors of Family facilities may swing inward.

(m) Ventilation. The building shall be well-ventilated at all times to prevent accumulation of objectionable odors. Kitchens, laundries, service rooms, toilets, and bathrooms shall be ventilated by windows, gravity vents, or mechanical means as necessary to prevent offensive odors from entering other parts of the facility.

(n) Fire Extinguishers. Fire extinguishers shall be provided for each hall, kitchen, and laundry, of type and capacity appropriate to the need.

1. Each fire extinguisher shall receive an annual inspection with maintenance, and recharging when necessary, by a fire equipment servicing representative. An annual servicing tag shall be attached to the extinguisher reflecting the name of the servicing company, representative, day, month, and year of maintenance.

2. A visual inspection of each fire extinguisher shall be conducted monthly by designated staff of the facility and

documented on the attached extinguisher tag by the designated staff person.

(o) Call System. Except in Family facilities, a central electric or electronic call system shall be conveniently provided for each resident, usable in bedrooms and bathrooms. The call system shall be certified to meet the applicable Underwriters Laboratories standard.

(p) Manufactured homes/mobile homes are not permitted.

(q) Fireplaces and inserts, shall be inspected and cleaned annually, and shall comply with the currently adopted building code. Openings shall be protected with screens, or doors.

(r) Exit marking. In Group and Congregate facilities, a sign bearing the word "EXIT" in plain legible block letters shall be placed at each exit. Additional signs shall be placed in corridors and passageways wherever necessary to indicate the direction of exit. Letters of signs shall be at least four inches high. All exit and directional signs shall be kept clearly legible by continuous internal electric illumination and have battery back-up or emergency power.

(s) Heating, Lighting, and other Service Equipment.

1. Central or individual room gas heating systems shall be of the enclosed flame type equipped with automatic flame shut-off control and shall be vented directly to the outside. Heating units of any type shall be located to avoid direct contact with any combustible material and shall be maintained in accordance with manufacturer's recommendation.

2. Open flame and portable heaters are prohibited in assisted living facilities. This does not apply to a fire place
with gas logs protected as noted elsewhere in these rules.

3. Lighting shall be restricted to electricity. Electric wiring, motors, and other electrical equipment in all assisted living facilities shall be in accordance with local electrical codes and the NFPA National Electrical Code.

(6) **Building Requirements-Family Assisted Living Facility.**

(a) General. Family assisted living facilities shall comply with the provisions of this section. Such facilities shall be renovated to comply with the provisions of the National Fire Protection Association, Life Safety Code Chapter for One-and

Two-Family Dwellings, and other minimum standards of safety established by the Board.

(b) Fire Protection.

1. Fire Extinguishers. A five-pound BC fire extinguisher shall be provided in the kitchen. A five-pound ABC fire extinguisher shall be provided in the laundry and hall(s).

2. Smoke Detectors. Smoke detectors tied into electrical systems are required in all bedrooms, activity rooms, and hallways. Detectors shall be tested monthly for local alarm activation and documented. Defective detectors shall be replaced within 24 hours.

(c) Mechanical and electrical systems shall be inspected by local building, electrical, plumbing officials, or the State Fire Marshal, or such other person(s) as the State Board of Health may request, and their recommendations relating to adequacy and safety presented to the Board.

(7) **Building Requirements - Group Assisted Living Facilities.**

(a) General. Group assisted living facilities licensed, constructed, or renovated after December 25, 1991, shall be limited to one story buildings and shall comply with the currently adopted building code and National Fire Protection Association, Life Safety Code. Facilities, or portions of facilities, built under the currently adopted codes shall comply with the Life Safety Code Chapter for New Residential Board and Care Occupancies (excluding NFPA 101A Alternative Approaches to Life Safety). Facilities, or portions of facilities, built under previous adopted editions of the codes shall comply with the currently adopted Life Safety Code Chapter for Existing Residential Board and Care Occupancies, Impractical Evacuation Capability (excluding NFPA 101A Alternative Approaches to Life Safety).

(b) Required Fire Exits.

1. At least two exits, remote from each other and so located that there will be no dead-end corridors in excess of 20 feet, shall be provided.

2. Exits shall be so located that the distance of travel from the corridor door of any occupied room to an exit shall not exceed 100 feet.

3. Each bedroom or suite shall have at least one doorway opening directly to the outside, or to an exit corridor leading directly to the outside.

4. Exit doors shall swing to the exterior.

5. Panic hardware shall be installed on all exit doors of facilities submitted for plan review. As a minimum, single action hardware is required on all exit doors of existing facilities.

(c) Corridors and Passageways. Corridors and passageways used as a means of exit, or part of a means of exit, shall be at least 36 inches wide, shall be unobstructed, and shall not lead through any room or space used for a purpose that may obstruct free passage.

(d) Smoke Barrier Separations.

1. Buildings exceeding 3,000 square feet in area shall be divided into separate areas by smoke barriers so located as to provide ample space on each side for approximately one-half the beds. Smoke barriers shall have a fire-resistive rating of not less than one hour or minimum one-half hour for existing sprinkled facilities.

2. Doors provided in smoke barriers shall be smoke-resistive, so installed that they may normally be kept in the open position, but will close automatically upon fire alarm activation.

3. Duct penetrations in smoke barriers shall be properly protected with smoke dampers.

4. Penetrations of smoke barriers with wiring, conduits, pipes, etc., shall be sealed to maintain the fire and smoke rating.

(8) **Building Requirements - Congregate Assisted Living Facility.**

(a) General. Congregate assisted living facilities licensed, constructed, or renovated under the currently adopted codes shall comply with the building code and the requirements for limited care facilities in the "New Health Care Occupancies" Chapter of the *Life Safety Code* (excluding *NFPA 101A, Alternative Approaches to Life Safety*). Facilities, or portions of facilities, built under previously adopted editions of the codes shall comply with the currently adopted *Life Safety Code* Chapter for Existing Residential Board and Care Occupancies, Impractical Evacuation Capability, thereby requiring compliance with the requirements for limited care facilities in the "Existing Health Care Occupancies" Chapter for the *Life Safety Code* (excluding *NFPA 101A Alternative Approaches to Life Safety*).

(b) Exit doors. Panic hardware shall be installed on all exit doors.

(c) Corridors and Passageways. Corridors and passageways shall be unobstructed and shall not lead through any room or space used for a purpose that may obstruct free passage.

(d) In new construction, the temperature of hot water accessible to residents shall be automatically regulated by tempering valves and a circulating pump system, unless the water heater is dedicated to resident use.

(e) Utility rooms shall be provided for each floor of Congregate assisted living facilities. The following equipment shall be provided:

1. Paper towel holder with an adequate supply of paper towels.

2. Wall cabinet or shelves.

3. Table or counter.

4. Soap dispenser with soap.

5. Sink - counter top, wall or floor mounted.

6. Space and facilities for cleaning equipment and supplies.

Author: Victor Hunt, Kelley Mitchell
Statutory Authority: Code of Ala. 1975, §§22-21-20, et seq.
History: Filed November 20, 1991. **Amended:** Filed February 20, 1997; effective March 27, 1997. **Repealed and New Rule:** Filed October 18, 2001; effective November 22, 2001. **Amended:** Filed June 18, 2002; effective July 23, 2002. **Amended:** Filed June 23, 2004; effective July 28, 2004. **Amended:** Filed June 21, 2006; effective July 26, 2006. **Amended:** Filed September 22, 2008; effective October 27, 2008. **Amended:** Filed August 20, 2015; effective September 24, 2015; operative October 1, 2015. **Repealed and New Rule:** Filed February 20, 2019; effective April 7, 2019.

Ed. Note: Previous Chapter 420-5-4 "Domiciliary Care Facilities" filed September 1, 1982. **Repealed:** Filed November 20, 1991.

420-5-4-.03 (Repealed) **Classification Of Assisted Living Facilities.**

Author: Faye Haygood
Statutory Authority: Code of Ala. 1975, §§22-21-20, et seq.
History: Filed November 20, 1991. **Repealed:** Filed October 18, 2001; effective November 22, 2001.

420-5-4-.07 (Repealed) **Storage of Drugs and Medicines.**

Author: Faye Haygood
Statutory Authority: Code of Ala. 1975, §§22-21-20, et seq
History: Filed November 20, 1991. **Repealed:** Filed October 18, 2001; effective November 22, 2001.

420-5-4-A **Appendix A Code of Ala. 1975, Sections 22-21-20, et seq.**.

§22-21-20. Definitions.

For the purpose of this article, the following terms shall have the meanings respectively ascribed to them by this section:

(1) Hospitals. General and specialized hospitals, including ancillary services; independent clinical laboratories; rehabilitation centers; ambulatory surgical treatment facilities for patients not requiring hospitalization; end stage renal disease treatment and transplant centers, including free-standing hemodialysis units; abortion or reproductive health centers; hospices; health maintenance organizations; and other related health care institutions when such institution is primarily engaged in offering to the public generally, facilities and services for the diagnosis and/or treatment of injury, deformity, disease, surgical or obstetrical care. Also included within the term are long term care facilities such as, but not limited to, skilled nursing facilities, intermediate care facilities, assisted living facilities, and specialty care assisted living facilities rising to the level of intermediate care. The term "hospitals" relates to health care institutions and shall not include the private offices of physicians or dentists, whether in individual, group, professional corporation or professional association practice. This section shall not apply to county or district health departments.

(2) Person. The term includes individuals, partnerships, corporations, and associations. (Acts 1975, 3rd Ex. Sess., No. 140, p. 382, §1; Acts 1979, No. 79-798, p. 1461; Acts 1991, No. 91-548, p. 1010, §1; Act 2001-1058, 4th Sp. Sess., p. 1044, §1.)

§22-21-21. Purpose of Article.

The purpose of this article is to promote the public health, safety and welfare by providing for the development, establishment and enforcement of standards for the treatment and care of individuals in institutions within the purview of this article and the establishment, construction, maintenance and operation of such institutions which will promote safe and adequate treatment and care of individuals in such institutions. (Acts 1949, No. 530, p. 835, §1; Acts 1962, Ex. Sess., No. 122, p. 157, §1.)

§22-21-22. License -- Required; exceptions.

No person shall establish, conduct or maintain any hospital as defined in Section 22-21-20 without first obtaining the license provided in this article. Hospitals operated by the federal government and mental hospitals under the supervision of the board of trustees of the Alabama State Hospitals shall be exempt from the provisions of this article. (Acts 1949, No. 530, p. 835, §2; Acts 1962, Ex. Sess., No. 122, p. 157, §2.)

§22-21-23. License -- Application.

Any person desiring licensing under this article shall apply to the State Board of Health therefore. The applicant shall state the name of the applicant and whether an individual, partnership, corporation or other entity, the type of institution for which a license is desired, the location thereof and the name of the person in direct supervision and charge thereof. The person in charge of such hospital must be at least 19 years of age and of reputable and responsible character. The applicant shall submit evidence of ability to comply with the minimum standards provided in this article or by regulations issued under its authority. (Acts 1949, No. 530, p. 835, §4; Act 2001-1058, 4th Sp. Sess., p. 1044, §1.)

§22-21-24. License -- Fees; Expiration and Renewal; Accreditation.

The application for a license to operate a hospital other than an assisted living facility or a specialty care assisted living facility rising to the level of intermediate care shall be accompanied by a standard fee of two hundred dollars ($200), plus a fee of five dollars ($5) per bed for each bed over 10 beds to be licensed in accordance with regulations promulgated under Section 22-21-28. Increase in a hospital's bed capacity during the calendar year is assessed at the standard fee of two hundred dollars ($200) plus five dollars ($5) each for the net gain in beds. The initial licensure fee and subsequent annual licensure renewal fee for an assisted living facility and for a specialty care assisted living facility rising to the level of intermediate care shall be two hundred dollars ($200) plus fifteen dollars ($15) for each bed. A license renewal application for any hospital, as defined by this article, which is not received by the expiration date in a properly completed form and accompanied by the appropriate renewal fee shall be subject to a late penalty equal to two hundred fifty dollars ($250) or 100 percent of the renewal fee, whichever is greater. No fee shall be refunded. All fees received by the State Board of Health under the provision of this article shall be paid into the State Treasury to the credit of the State Board of Health and shall be used for carrying out the provisions of this article. A license granted under this article shall expire on December 31 of the year in which it was granted. A license certificate shall be on a form prescribed by the department, and shall be posted in a conspicuous place on the licensed premises.

Licenses shall not be transferable or assignable and shall be granted only for the premises named in the application. Licenses may be renewed from year to year upon application, investigation, and payment of the required license fee, as in the case of procurement of the original license. All fees collected under this article are hereby appropriated for expenditure by the State Health Department. All hospitals which are accredited by the joint commission on accreditation of hospitals shall be deemed by the State Health Department to be licensable without further inspection or survey by the personnel of the State Department of Health. Further accreditation by the joint commission on accreditation of hospitals shall in no way relieve that hospital of the responsibility of applying for licensure and remitting the appropriate licensure fee as specified in this article. (Acts 1949, No. 530, p. 835, §5; Acts 1975, 3rd Ex. Sess., No. 140, p. 382, §2; Acts 1980, No. 80-642, p. 1213; Acts 1988, 1st Ex. Sess., No. 88-902, p. 470; Act 2001-1058, 4th Sp. Sess., p. 1044, §1.)

§22-21-25. License -- Issuance; Suspension or Revocation; New Applications After Revocation.

(a) The State Board of Health may grant licenses for the operation of hospitals which are found to comply with the provisions of this article and any regulations lawfully promulgated by the State Board of Health.

(b) The State Board of Health may suspend or revoke a license granted under this article on any of the following grounds:

(1) Violation of any of the provisions of this article or the rules and regulations issued pursuant thereto.

(2) Permitting, aiding or abetting the commission of any illegal act in the institution.

(3) Conduct or practices deemed by the State Board of Health to be detrimental to the welfare of the patients of the institution.

(c) Before any license granted under this article is suspended or revoked, written notice shall be given the licensee, stating the grounds of the complaint, and the date, time, and place set for the hearing of the complaint, which date of hearing shall be not less than 30 days from the date of the notice. The notice shall be sent by registered or certified mail to the licensee at the address where the institution concerned is located. The licensee shall be entitled to be represented by legal counsel at the hearing.

(d) If a license is revoked as provided in this section, a new application for license shall be considered by the State Board

of Health if, when, and after the conditions upon which revocation was based have been corrected and evidence of this fact has been furnished. A new license shall then be granted after proper inspection has been made and all provisions of this article and rules and regulations promulgated under this article have been satisfied. (Acts 1949, No. 530, p. 835, §7; Act 2001-1058, 4th Sp. Sess., p. 1044, §1.)

§22-21-26. License -- Judicial Review of Suspension or Revocation.

Any party aggrieved by a final decision or order of the Board of Health suspending or revoking a license is entitled to a review of such decision or order by taking an appeal to the circuit court of the county in which the hospital is located or is to be located. (Acts 1949, No. 530, p. 835, §11.)

§22-21-27. Advisory Board.

(a) There shall be an advisory board of 17 members to assist in the establishment of rules, regulations, and standards necessary to carry out the provisions of this article and to serve as consultants to the State Health Officer. The board shall meet at least twice each year and at the call of the State Health Officer. The members of the board shall annually elect one of its members to serve as chairman.

(b) The advisory board shall be constituted in the following manner:

(1) Four representatives of hospitals, who shall be appointed by the Board of Trustees of the Alabama Hospital Association as follows:

a. One administrator of a governmental hospital.

b. One administrator of a nongovernmental nonprofit hospital.

c. One owner or administrator of a proprietary hospital.

d. One member of a managing board of a nonprofit hospital.

(2) Three representatives who shall be doctors of medicine appointed by the Board of Censors of the Medical Association of the State of Alabama.

(3) One representative who shall be a registered nurse appointed by the Executive Board of the Alabama State Nurses Association.

(4) One representative from the State Board of Human Resources who shall be appointed by the board.

(5) One registered pharmacist actively engaged in the practices of pharmacy in the State of Alabama, to be appointed by the Executive Committee of the Alabama Pharmacy Association.

(6) Three members who shall be appointed by the Executive Committee of the Alabama Nursing Home Association, each of whom shall be the operator of a duly qualified licensed nursing home.

(7) One member who shall be appointed by the Alabama Hospice Association.

(8) Two members who shall be appointed by the Assisted Living Association of Alabama, one of whom shall be the operator of a licensed assisted living facility or licensed specialty care assisted living facility rising to the level of intermediate care with 16 or fewer beds, and one of whom shall be the operator of an assisted living facility or licensed specialty care assisted living facility rising to the level of intermediate care with more than 16 beds.

(9) One member who shall be appointed by the Governor to represent the interests of consumers. The consumer representative shall be at least 65 years of age and shall have no financial interest in any facility licensed under this article. Each new appointee shall serve for five years or until his or her successor is appointed, whichever is later. Any vacancy caused by a member leaving the position before the expiration of his or her term shall be filled by the organization selecting the original member. The replacement member appointed shall serve for the remainder of the unexpired term.

(c) A member of the advisory board shall not be eligible to succeed himself or herself after serving one full five-year term, but shall be eligible for reappointment if he or she has served only a portion of a five-year term or if he or she has not served immediately preceding the reappointment.

(d) Members of the advisory board shall serve without compensation, but shall be entitled to reimbursement for expenses incurred in the performance of the duties of the office at the same rate allowed state employees pursuant to general law. (Acts 1949, No. 530, p. 835, §9; Acts 1959, No. 134, p. 656, §1; Acts 1991, No. 91-548, p. 1010, §1; Act 2001-1058, 4th Sp. Sess., p. 1044, §1.)

Author: Rick Harris, Kelley Mitchell

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