

**RULES  
OF  
ALABAMA STATE BOARD OF HEALTH  
ALABAMA DEPARTMENT OF PUBLIC HEALTH**

**CHAPTER 420-5-4**

**ASSISTED LIVING FACILITIES**



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**STATE OF ALABAMA  
DEPARTMENT OF PUBLIC HEALTH  
MONTGOMERY, ALABAMA**

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**CHAPTER 420-5-4**

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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, residence and personal care to two or more individuals who are in need of assistance with activities of daily living. 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:

(a) 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

(b) 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) "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.

- (d) "Bed Complement" means the number of beds normally installed in an assisted living facility for use of the residents.
- (e) "Board", or "State Board of Health" means the Alabama State Board of Health.
- (f) "Congregate Assisted Living Facility" means an assisted living facility authorized to care for 17 or more adults.
- (g) "Department" means the Alabama Department of Public Health.
- (h) "Division" means the Division of Health Care Facilities, Alabama Department of Public Health.
- (i) "Family Assisted Living Facility" means an assisted living facility authorized to care for 2 or 3 adults.
- (j) "Group Assisted Living Facility" means an assisted living facility authorized to care for 4 to 16 adults.
- (k) "License" means the legal authority granted by the State Board of Health to operate a facility.
- (l) "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.
- (m) "Licensed Practical Nurse" means a person currently licensed in the State of Alabama in accordance with *Code of Ala., 1975*, Sections 34-21-1, et. seq.
- (n) "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.
- (o) "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.
- (p) "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.
- (q) "Registered Professional Nurse" or "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.

**(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.

**Author:** Rick Harris

**Statutory Authority:** *Code of Alabama, 1975*, 22-21-20, et. seq.

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**420-5-4-.02 The License.**

**(1) Types of License.**

- (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 there is a reasonable likelihood that the operator or operators of the assisted living facility are capable of achieving and maintaining substantial compliance with the rules herein adopted.
- (b) Probational License. This license shall be granted when the Board has reason to believe that the operation is questionable, but only 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. However, an extension of time may be granted if the governing authority is making specific plans to construct a new assisted living facility, establish an assisted living facility in a structure which meets these Rules or is actually in the process of meeting these Rules. Closure of the assisted living facility for a period of thirty days or longer except for remodeling or alterations shall mean that it is no longer in continuous operation and it shall meet the requirements for a regular license prior to being reopened.

**(2) Application.**

- (a) Application. An application for license or renewal of license shall be made on forms provided by the State Board of Health and shall contain such information as the Board may require.
- (b) Fee. Each application for license shall be accompanied by a fee as mandated by statute. No fee shall be refunded. Fees shall be paid by cash, check or money order made payable to the Alabama Department of Public Health.
- (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", "sanitorium", "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.

- (d) Number of Beds. Each application for license and license renewal shall specify the bed capacity of the assisted living facility.

**(3) Licensing.**

- (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 Not Transferable. A license to operate an assisted living facility shall not be transferable or assignable and shall be granted only for the premises identified in the license application.
- (e) Expiration of License. Each license to operate an assisted living facility shall expire on December 31 following the date of issuance unless it is timely renewed.

**(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; or
  - 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.
  - 4. Conviction in this state or any other jurisdiction of the owner or administrator for a felony or any crime involving the physical, sexual, mental, or verbal abuse of an individual, or infliction by the owner or administrator of physical, sexual, mental, or verbal abuse of a resident of the licensed facility or any other licensed health care facility.

5. Conviction in this state or any other jurisdiction of the owner or administrator for any crime involving fraud.
  6. 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 of Public Health to fulfill a survey.
  7. Failure by the facility to submit an acceptable plan of correction for deficiencies cited by the Department.
- (b) 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, giving a brief explanation of the reason or reasons that the Board proposes to revoke 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. 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 Alabama Department of Public Health, 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.
- (c) 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.
- (d) Violations of these rules may result in a penalty under *Code of Ala., 1975*, Section 22-21-33.
- (e) 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 Procedure Act, *Code of Ala., 1975*, Section 41-22-1 et. seq.
- (6) **Waivers 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 waiver of the specific

provisions in conflict. Application for waiver 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

**Statutory Authority:** *Code of Alabama, 1975, 22-21-20, et. seq.*

**History: Repealed and Replaced:** Filed October 18, 2001; effective November 22, 2001.

#### **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. The governing authority shall be responsible for implementing policies for the management and operation of the facility, and for appointing and supervising the administrator who is responsible for overall management and the day-to-day operation of the facility. In family and group assisted living facilities, the governing authority and the administrator may be the same individual. A facility must give complete information to the Department identifying:
  - 1. Each person who has an ownership interest of ten per cent or more of the governing authority;
  - 2. Each person or entity who has an ownership interest of ten per cent 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; and
  - 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) **Policies.** An assisted living facility shall establish and implement written policies 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). Policies shall cover the following:

1. How allegations of abuse, neglect, and exploitation will be handled by the facility.
  2. Admission and continued stay criteria.
  3. Discharge criteria and notification procedures for residents and sponsors.
  4. Facility responsibility when a resident's personal belongings are lost.
  5. What services the facility is capable and not capable of providing.
  6. Medication assistance.
  7. Meal service, timing, menus and food preparation, storage, and handling.
  8. Fire drills, fire alarm system, sprinkler and fire extinguisher checks, and disaster preparedness.
  9. Staffing and conduct of staff while on duty.
- (d) Relationship 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.
- (e) Department Notification. At least 30 days prior to any proposed change in ownership, the licensee of an assisted living facility shall file a change of ownership application with the Board of Health. The Board of Health shall be provided written notification not later than 15 days after any change in administrator.
- (f) Protection. Assisted living facilities 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 Board of Health in assisted living facilities, serious violations of these provisions of law may nevertheless constitute grounds for adverse licensure action.
- (g) Assisted living facilities shall obey all applicable federal state and local laws, ordinances, and regulations.

**Author:** Rick Harris

**Statutory Authority:** *Code of Alabama, 1975, 22-21-20, et. seq.*

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

(1) **General.** An assisted living facility shall employ sufficient staff and ensure sufficient staff are on duty to meet the care needs of all residents twenty-four hours a day, seven days a week. This means that an assisted living facility must not only have a sufficiently large number of staff members to meet the care needs of all residents, it must also manage and direct the activities of staff members in a manner that results in adequate care being provided. An assisted living facility shall likewise employ sufficient staff, ensure sufficient staff are on duty, and manage and direct staff activities in a manner that results in maintenance of a neat, clean, orderly, and safe environment at all times.

(a) Employee Screening.

1. Prior to any resident contact, 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.

2. Prior to any resident contact, newly employed personnel shall be properly evaluated for tuberculosis.

3. Vaccines. Assisted living facilities shall immunize employees 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.

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

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

1. An application for employment which contains information regarding the employee's education, training, experience, date of hire, and, if applicable, registration and licensure.

2. Record of required physical examinations and vaccinations.
3. Date employment ceased.

(d) **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 three weeks after use.

(2) 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 \$25.00, 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(b). Notwithstanding the foregoing, individuals appointed before October 5, 2001 as legal guardians for specialty care 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.

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

2. There must be an individual authorized in writing to act for the administrator during absences.
3. 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.
4. 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.
5. The administrator shall ensure that plans of care for all residents are current and appropriate. This shall include the prearranged discharge plan.
6. The administrator shall ensure that all deficient practices cited by the Department of Public Health are corrected in a timely manner.
  - (b) The administrator and any individual authorized to act as a substitute shall be at least nineteen years of age.
  - (c) The administrator and any individual authorized to act as a substitute shall be of reputable and responsible character.

**(4) Training.**

- (a) Continuing Education. An Assisted living facility administrator shall have at least six hours of continuing education each year. Currently licensed nursing home administrators are exempt from this requirement.
- (b) All staff who have contact with residents, including the administrator, shall have initial training and refresher training, as necessary. The following subject matter areas shall be covered:
  1. State law and rules on assisted living facilities.
  2. Identifying and reporting abuse, neglect and exploitation.
  3. Special needs of the elderly, mentally ill, and mentally retarded.
  4. Basic first aid.
  5. Advance Directives.
  6. Protecting resident confidentiality.
  7. Safety and nutritional needs of the elderly.

8. Resident fire and environmental safety.
9. Identifying signs and symptoms of dementia.

(c) 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 cardiopulmonary resuscitation (CPR). 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 of Public Health as acceptable for EMS personnel 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.

(d) Documentation. Documentation of all staff training to include attendance records shall be maintained.

(e) Administrator Accountability. The facility administrator is responsible for ensuring that required training is provided to all members of the facility staff.

**Author:** Rick Harris

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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) 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.

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

(d) Maintenance and Filing of Records and Reports.

1. 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.

2. All entries on all records and reports shall be made by typewriter or printer or shall otherwise be written legibly using ink. Documents printed on a plain paper electronic facsimile machine shall be deemed to meet this requirement.

3. Adult Protective Services Reports. 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, and shall also be reported to the Department of Public Health within 24 hours. Such incidents shall be immediately investigated by the facility, and the results of the investigation shall be promptly reported to the Department of Public Health.

(e) Records Shall be Confidential. 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 Alabama Department of Public Health 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. 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.

**(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 three years after the employee leaves employment.

4. Current policy and procedure manual.

(b) Reports. The following reports shall be made by an assisted living facility.

1. **Disease Reporting.** Notifiable diseases and health listed in Appendix I to 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 also report notifiable diseases and health conditions to the Division of Health Care Facilities. 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 three years.

2. An assisted living facility shall conduct a thorough investigation and take appropriate corrective action in response to all reports of abuse, neglect, and exploitation of residents, and misappropriation of resident property. Documentation of each report received, each investigation, and all corrective action taken shall be retained for a period of not less than three years.

**(3) Resident Records.** For each resident an assisted living facility shall maintain on its premises the seven required documents listed below and any other documents required by the facility's policies and procedures. The seven required documents are the resident's Financial Agreement, the resident's Admission Record, the resident's Medical Examination Record, the resident's Plan of Care, any Incident Report involving the resident, a Statement of Resident Rights signed by the resident, and the resident's Inventory of Personal Effects. In addition to the above seven documents, the facility shall also maintain on its premises any Advance Directive that has been executed by the resident. NOTE: under no circumstances shall the facility require a resident to execute an advance directive, nor may a facility require a resident to refrain from executing an advance directive. No staff member of the facility may encourage or discourage any resident with respect to the execution of an advance directive or contemplated execution of an advance directive. These records, either typewritten or legibly written ink, shall be protected from unauthorized disclosure. The resident records shall be retained for a period of not less than three years after the resident is discharged or dies.

(a) 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 ninety 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 assure 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).

(b) Admission Record. A permanent record shall be developed for each resident upon his or her admission to the facility. 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 name, date of birth, sex, marital status, social security number, and veteran status; the name, address, and telephone number of the resident's sponsor, responsible party, or closest living relative; the name, address, and telephone number of any person or agency providing assistance to the resident; the name and telephone number of the resident's attending physician; the resident's preferred pharmacy or pharmacist; the resident's date of admission and date of discharge or death, facility, setting, or location to which discharged; cause of death, if

known; his or her religious preferences; and information from the resident about insurance policies (funeral arrangements and burial provisions).

(c) Medical Examination Record. Not more than thirty days prior to admission of any resident to an assisted living facility, the resident or prospective resident shall be examined by a physician, who 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 believes is pertinent, the medical examination record shall contain the following:

1. All of the physician's diagnoses, and the resident's baseline weight and vital signs.
2. 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.
3. Medication presently prescribed (name, dosage, and strength of drug, frequency of administration).
4. A physician order is required for a resident to manage and have custody of his or her own medications.

(d) 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 medical examination, diagnoses, and recommendations of the resident's treating physician. The plan of care shall be developed in cooperation with the resident and, if appropriate, the sponsor. It shall document the personal care and services required from the facility by the resident. This plan shall be kept current, reviewed and updated when there is any significant change in the resident's condition, after each hospitalization, and at other appropriate times. It shall in all cases be reviewed and updated at least annually by the attending physician. In addition to other items that may be required by the facility's own policies and procedures, it shall contain the following:

1. A listing of the resident's needs or problems that require intervention by the facility, such as behavioral symptoms, weight loss, falls, and therapeutic diets. The facility shall assess the appropriateness of interventions required by each resident monthly. The facility shall on a monthly basis weigh and record the weight of each resident. The facility shall assess residents on a monthly basis and more often when necessary to identify significant changes in health status or behavior to include awareness of medication. Significant change is defined as two or more falls in 30 days or less, a significant weight loss, unmanageable or combative or potentially harmful behaviors, any adverse drug interaction or over sedation or any elopement. A significant weight loss is defined as a 5% or greater weight loss in a period of one month or less, or a 7.5% or greater weight loss in a period of three months or less, or a 10% or greater weight loss in a period of six 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. Any significant change requires immediate implementation and documentation of interventions or reassessment of existing interventions.

2. A description of the assistance with activities of daily living required by the resident including bathing, dressing, ambulation, feeding, toileting, grooming, medication assistance, diet and risk to personal safety. As changes in medication and personal services become necessary, the plan of care shall be promptly updated and all changes shall be documented.

3. 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.

4. 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).

5. A copy of any outside provider's certification and plan of care, such as the current Home Health Certification and Plan of Care (HCFA Form 485/487) for each resident receiving care from an outside provider.

(e) For the purposes of these rules, the following terms shall have the following definitions:

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

2. 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.

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, or any sexually oriented behavior between residents when either or both residents are incapable of consenting to the behavior because of cognitive impairment.

4. 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.

5. 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.

6. Neglect means the failure to provide goods and services necessary to avoid physical harm or mental distress or anguish.

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

(f) Incident Investigation.

1. When an incident, as defined below, occurs in an assisted living facility, the facility administrator shall be immediately notified, the facility shall conduct an investigation, and appropriate interventions shall be devised and implemented immediately. A detailed and accurate report shall be completed within 24 hours of the incident. The report shall be given immediately upon completion to the administrator for review. The entire investigative file shall be made available for inspection and copying by representatives of the Alabama Department of Public Health upon request. The entire investigative file means the incident report itself and all records and documents created or reviewed in connection with the investigation. Interventions devised as a result of the investigation shall be included in a resident record that is available to the personal care staff. In addition to other items required by the facility's policies and procedures, the incident report shall contain the following:

- (i) Circumstances under which the incident occurred.
- (ii) When the incident occurred (date and time).
- (iii) Where the incident occurred (for example, bathroom, bedroom, street, or lawn).
- (iv) Immediate treatment rendered.
- (v) Names, telephone numbers, and addresses of witnesses.

- (vi) Date and time relatives or sponsor were notified.
- (vii) Out-of-facility treatment.
- (viii) Symptoms of pain and injury discussed with the physician, and the date and time the physician was notified.
- (ix) The extent of injury, if any, to the affected resident or residents.
- (x) Follow-up care and outcome resolution.
- (xi) The action taken by the facility to prevent the occurrence of similar incidents in the future.

2. Incidents which require investigation are:

- (i) An accident or injury of known or unknown origin that was unusual or suspicious in nature or for which medical treatment was sought.
- (ii) A fracture or an injury resulting in hospitalization.
- (iii) The onset of wandering behavior by any resident who is not fully cognitively intact;
- (iv) A resident who is found to be missing from the facility without staff knowledge;
- (v) Sexual contact or a report of sexual contact between a resident and a staff member of the facility;
- (vi) Sexual contact or a report of sexual contact between residents of the facility when such contact is not freely consented to by both residents or when one of the residents is incapable of consenting to sexual contact by reason of mental impairment;
- (vii) Physical abuse, verbal abuse, emotional abuse, or a report of such abuse, directed at a resident by a staff member or visitor of the facility;
- (viii) Resident on resident physical abuse;
- (ix) Theft or the reported theft of the money or personal belongings of a resident;
- (x) An outbreak of a contagious disease or condition among residents (for example, influenza, methicillin resistant Staphylococcus aureus, or scabies);

- (xi) 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;
- (xii) Intentional self-inflicted injury, suicide, or suicide attempt by a resident;
- (xiii) An unplanned occurrence that results in media attention;
- (xiv) A medication error, including overdose, that results in a resident being hospitalized;
- (xv) Ingestion by a resident of a toxic substance that requires medical intervention;
- (xvi) A food-borne outbreak; or
- (xvii) A malfunction of the sprinkler system, or fire alarm system.

3. In addition, the following shall be reported to the Assisted Living Facilities Report Faxline:

- (i) A fracture or an injury resulting in hospitalization, death, EMS activation, or a visit to the emergency room.
- (ii) A resident who is severely cognitively impaired who is found to be missing from the facility without staff knowledge and immediate and appropriate staff intervention;
- (iii) Sexual contact or a report of sexual contact between a resident and a staff member of the facility. Sexual contact or report of sexual contact between a resident and a visitor or another resident when the sexual contact is not consensual or when the resident is incapable of consenting to sexual contact.
- (iv) Physical abuse, verbal abuse, emotional abuse, or a report of such abuse, directed at a resident by a staff member or visitor of the facility and injury such as extensive bruising, pain or injury that is not consistent with actions necessary in providing day to day care to a resident;
- (v) 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;
- (vi) Intentional self-inflicted injury, suicide, or suicide attempt by a resident;

- (vii) An unplanned occurrence that results in media attention;
- (viii) A medication error, including overdose, that results in a resident being hospitalized;
- (ix) Ingestion by a resident of a toxic substance that requires medical intervention;
- (x) A malfunction of the sprinkler system, or fire alarm system.

4. The report to the Assisted Living Facilities Report Faxline shall be made within 24 hours of the incident and 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 involved in the incident;
  - (v) Names of staff on duty at the time of the incident;
  - (vi) Date and time of the incident;
  - (vii) Any injury or injuries to resident(s);
  - (viii) Action taken by the facility in response to the incident.
- (g) 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 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 for medical reasons the resident is certified by a physician to require an emergency relocation to a facility providing a more skilled level of care, or 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 Division of Health Care Facilities, 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 12 months shall be posted in a prominent location. If there has been no inspection in the past 12 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 accorded 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.

(h) Inventory of Personal Effects.

1. Upon admission to the assisted living facility, all personal property of the resident with a value in excess of \$150.00, 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 \$150.00 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.

**Author:** Rick Harris

**Statutory Authority:** *Code of Alabama, 1975, 22-21-20, et. seq.*

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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 Emergency Medical Services system (911 or an other 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.

(c) 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 otherwise would be required to be performed by a physician so long as that function is within the nurse practitioner's or physician assistant's scope of practice.

**(2) Health Supervision.**

(a) **Observation.** Each assisted living facility shall provide general observation and health supervision of the residents sufficient to develop awareness of changes in all residents' health conditions and physical abilities, and awareness of the need for medical attention or nursing services. Whenever a resident requires medical attention, ~~or~~ 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.

(b) **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.

(c) **Mechanical Restraint and Seclusion.** No form of 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 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.

(d) 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 Emergency Medical Services ("EMS") system shall be activated by calling 911 or other emergency local telephone number.

(e) 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.

(f) Each facility shall develop and implement a policy and procedure to ensure that each resident of the facility is free 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 incidents of abuse, neglect or exploitation of a resident to the administrator. When abuse, neglect, or exploitation is alleged or suspected, the facility shall conduct and document a thorough investigation and take appropriate action to prevent further abuse. All allegations and suspicions 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 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.

(g) Annual Physical Examination. In addition to the admission physical examination, each resident shall be given an annual physical examination, 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 items deemed necessary or desirable by the resident's attending physician, the resident's weight shall be documented on the annual physical examination findings.

(h) Prior to admission, residents shall be evaluated for tuberculosis.

(i) 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.

(j) Oxygen Therapy. If a resident receives oxygen therapy in a facility:

1. All oxygen equipment, such as tubing, masks, and nasal cannulae 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.

5. The facility shall have written policies and procedures governing oxygen administration and storage.

6. The facility shall ensure that all staff members are trained in safe handling of oxygen, in safety practices to be observed during oxygen administration, and in the facility's policies and procedures.

(k) 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 Alabama Department of Public Health, 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 ("MD" or "DO"), a physician's assistant ("PA"), a registered professional nurse ("RN"), or a licensed practical nurse ("LPN"). 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.

### **(3) Personal Care and Services.**

(a) The facility shall offer appropriate activity programs to each resident, maintaining supplies and equipment as necessary to implement the activity programs.

(b) 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.

(c) 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 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.

(d) 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.

1. 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.

2. 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.

3. Hair. Resident's hair shall be kept clean, neat, and well groomed.

4. Manicure. Fingernails and toenails shall be kept clean and trimmed.

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

6. Food service. Food service shall be provided in a resident's room during temporary illness if necessary.

7. Personal Safety. Residents shall be provided assistance with personal safety.

8. Appointments. Residents shall be assisted in making and keeping appointments.

**(4) Medications.**

(a) An assisted living facility resident who is aware of his or her medications may self-administer his or her own medications. For the purposes of these rules, the term medication shall mean substances regulated by the Food and Drug Administration whose purpose is to treat, promote, maintain or improve a resident's health status. Nothing in these rules shall preclude a facility from using a licensed nurse to administer medication to a resident who is capable of self-administration as defined herein.

(b) For purposes of this section, "aware of his or her medications" shall mean either of the following:

1. The resident can maintain possession and control of his or her medications, and self-administer medications, without creating an unreasonable risk to health and safety; or

2. The resident has a reasonable lay person's understanding of the unit dose packaging system in use by the facility such that the resident could likely protect himself or herself from medication errors if 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.

(c) A resident who is not aware of his or her medications is deemed to be severely cognitively impaired. Severely cognitively impaired is defined as a resident being incapable of recognizing his or her name, or if he or she does not understand and cannot be trained to understand the unit dose medication system in use by the facility, or if the resident likely cannot protect himself or herself from medication errors by facility staff.

(d) An assisted living facility resident who is aware of his or her medications as defined above may be assisted with the self-administration of medication by any assisted living facility staff, including staff members who hold no professional licensure. Assistance with self-administration of medication includes the following practices:

1. Reminding a resident who is aware of his or her medications as defined above 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.

2. Physically assisting a resident who is aware of his or her medications as defined above by opening or helping to open a container holding oral medications.

3. Offering liquids to a resident who is aware of his or her medications as defined above to assist that resident in ingesting oral medications.

4. Physically bringing a container of oral medications to a resident who is aware of his or her medications as defined above.

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

1. Giving a resident injections of any kind.
2. Administering eye drops, eardrops, nose drops, inhalers, suppositories, or enemas.
3. Telling or reminding a resident that it is time to take a PRN, or as needed medication.
4. Crushing or splitting medications.
5. Placing medications in a feeding tube.
6. Mixing medications with food or liquids.

*Provided*, that a resident who is capable of maintaining possession and control of his or her own medications, who does maintain possession and control of his or her medications, 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, or nose drops by unlicensed facility staff so long as the assistance provided is under the total control and direction of the resident.

(f) A resident of an assisted living facility who is severely cognitively impaired shall have medications administered only by an individual who is currently licensed to practice medicine or osteopathy by the Medical Licensure Commission of Alabama, or by an individual who is currently licensed by the Alabama State Board of Nursing as a Registered Professional Nurse ("RN") or Licensed Practical Nurse ("LPN"). Residents with a chronic condition that cause him or her to be severely cognitively impaired shall be appropriately discharged.

(g) Medications of any kind, including over the counter medications, legend drugs and controlled substances, 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.

(h) All medications administered to residents in an assisted living facility, including over the counter medications, shall be contemporaneously recorded on a standard medication administration record. "Contemporaneously recorded" means recorded at the same time or immediately after medications are administered.

(i) The medication administration record shall include at least the following:

1. The name of the resident to whom the medication was administered.
2. The name of the medication administered.
3. The dosage of the medication administered.
4. The method of administration.
5. The site of injection or application, if the medication was injected or applied.
6. The date and time of the medication administration.
7. Any adverse reaction to the medication.
8. The printed name and written signature of the individual administering the medication.

(j) 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. 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 not self-managing medications must use a single pharmacy, but 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 or 30 days prior to the policy taking effect. 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 adverse drug interactions and to advise the facility and the prescribing health care provider when these are detected.

(k) 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 law, federal law, the requirements of the Alabama State Board of Pharmacy, and any requirements prescribed by the Alabama State Board of Health. At a minimum, controlled substances in the custody of the facility shall be stored using a double lock system, and 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. 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 is aware of his or her medications and 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 in the resident's living quarters, if the room is single occupancy and has a locking entrance.

(l) Medication administration 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 available for inspection and copying on demand by agents of the State Board of Health. They shall further be made available for inspection at reasonable times by residents who are not cognitively impaired and by the sponsors of residents who are cognitively impaired.

(m) Labeling of Drugs and Medicines. All containers of 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." Medications maintained as stock must contain the manufacturer's label and shall be properly labeled in accordance with accepted professional standards.

(n) Disposal of Medications.

1. Controlled substances and legend drugs dispensed to residents, that are unused because the medication is discontinued or because the resident dies, shall be destroyed within 30 days, except unused legend drugs may be donated to a charitable clinic pursuant to Alabama Administrative Code, Chapter 420-11-11 et. seq.

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 two years. Discontinued medications shall not be stored or housed in the facility.

3. When medication is destroyed on the premises of the assisted living facility, a record shall be made and filed for at least two 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.

**(5) Storage of Medical Supplies and Poisons.**

(a) 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 will be inspected at least annually to ensure their usability.

(b) Poisonous or External Use Substances. Cleaning supplies and poisons shall be attended at all times or shall be kept in a secure area.

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

(a) An assisted living facility shall not admit or retain a resident who is severely cognitively impaired as defined in section (4)(c).

(b) An assisted living facility shall not admit nor once admitted shall it retain a resident who requires medical or skilled nursing care for an acute condition or exacerbation of a chronic condition which is expected to exceed 90 days unless:

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

2. 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.

(c) An assisted living facility shall not admit a resident who is receiving or in need of hospice care at the time of admission. 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. The facility may permit the resident to remain in the facility by arranging for such care to be delivered by properly licensed individuals. A resident receiving hospice care may remain in the facility beyond 90 days. The facility would in all cases remain responsible for the appropriate delivery of such care and must take necessary steps to ensure that appropriate care needed by a resident is delivered to the resident. If the facility is unable or becomes unable to meet an admitted resident's needs, or if an admitted resident 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.

(d) Individuals with acute infectious pulmonary disease, such as influenza or active tuberculosis, or with other diseases capable of transmission to other residents through normal resident to resident contact shall be temporarily denied admission until certified by a physician to be free of a contagious condition.

(e) Individuals with infected draining wounds shall be temporarily denied admission until the wound is sufficiently healed to have stopped draining.

(f) No assisted living facility shall hold itself out to the public as a "specialty care assisted living facility," as a, "Dementia Care Facility," as an, "Alzheimer's Care Facility," or otherwise as specializing in or as being competent to care for individuals suffering from dementia or Alzheimer's disease. 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.

(g) 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.

(h) An assisted living facility shall not admit a resident, nor shall it retain any resident, if such resident, because of dementia, cannot safely reside in the facility unless his or her egress from the facility is restricted.

(7) **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 Emergency Medical Services personnel, 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 Alabama 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.

**Author:** Rick Harris

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#### **420-5-4-.07 Food Service.**

##### **(1) General.**

(a) **Direction and Supervision.** The services of a Dietitian shall be made available 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. Effective August 15, 2007, 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 when a dietitian is not employed. 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.

(b) **Written Policies and Procedures.** 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:

1. Sanitation of dishes, utensils, and services equipment, and sanitary food preparation and handling.
2. The attire and cleanliness of staff members who prepare, handle or serve food.
3. A schedule of meals, which shall include between-meal nourishment or snacks, and fluids.
4. Food substitutions or alternatives.
5. Method to ensure adequate dietary plan is implemented for any resident with a therapeutic diet or special dietary needs.
6. Procedure to be followed if a resident is nutritionally compromised or is not eating adequate quantities of food.
7. Provision of necessary services to any resident requiring adaptive devices to eat.
8. 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.
9. Procedure for the handling of potentially hazardous foods such as meat, milk, ice, and eggs.

10. Storage of food.

**(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. Handwashed repeated service and multi-service utensils and dishes, after washing and rinsing, shall be sanitized by either of the following methods: (A) 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 (B) 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 three months.

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

4. After washing, rinsing, sanitizing, and air-drying, all repeated use serviceware (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. Medication, 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 six 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 degree Fahrenheit. Thermometers shall remain in refrigerators and freezers at all times.

5. All leftover foods shall be labeled and dated, (month, day, year) and consumed within three days.

6. Potentially hazardous hot foods shall be at a minimum temperature of 135 degrees Fahrenheit and cold foods at a maximum temperature of 41 degrees Fahrenheit. Frozen food must be maintained at a temperature where it is kept frozen solid.

7. Food shall be prepared either in the licensed facility or another location even when that location is not 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. Hot foods must be maintained at a minimum of 135 degrees Fahrenheit and cold foods at a maximum 41 degrees Fahrenheit. All food preparation areas used by the facility shall be subject to the same inspections as though part of the licensed facility.

8. Frozen food items (raw and cooked) shall be thawed under refrigeration prior to preparation. Raw meats shall be stored below and away from vegetables, fruits and other foods to prevent contamination (meat juices dripping on other foods).

9. 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, 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 twenty-four hours. 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 five hours apart with no more than fourteen 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 one 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 two weeks. For any resident with a physician's order for a therapeutic diet, 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 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 three meals per day to all residents for three days. Non-perishable food and potable water shall be maintained in the facility in sufficient quantity to serve three meals per day to all residents for three days.

**Author:** Rick Harris

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#### 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 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.

(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 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 1 per 8 beds
  - (ii) Lavatories 1 per 6 beds
  - (iii) Toilets 1 per 6 beds
2. When a semi-private bedroom is provided, the facility shall provide a means of privacy for dressing and bathing. 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 services necessary to maintain a sanitary, orderly, and comfortable interior shall be provided.

(4) Food Service Facilities.

(a) Floors. Floors in food service areas shall be of such construction as to be easily cleaned, sound, smooth, nonabsorbent, 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 selfclosing 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 homes 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 with a soap dispenser and disposable towels, and shall be well lighted and ventilated.

(g) **Handwashing 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. If it is impractical to provide separate refrigeration for perishables, the 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 a 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, 5 pound type BC for residential hoods and K type for commercial hoods.

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

5. Garbage cans with cover.

6. 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.

(p) Food Storage. A well ventilated, cool food storage room, or 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 handwashing 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 comfortable chairs, tables, and lamps of good repair and clean.

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

(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

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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 recirculation 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 fifteen 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.**

1. 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 watertight suitable containers with tightfitting 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 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.

**Author:** Victor Hunt

**Statutory Authority:** *Code of Alabama, 1975, 222120, et. seq.*

**History: Repealed and Replaced:** Filed October 18, 2001; effective November 22, 2001.

**AMENDED:** Filed September 22, 2008; effective October 27, 2008.

#### **420-5-4-.11 Fire and Safety.**

##### **(1) General.**

(a) **Evacuation Plan.** All assisted living facilities shall maintain a current written fire control and evacuation plan. In facilities, which do not have multiple smoke compartments, an evacuation floor plan shall be appropriately posted in a conspicuous place. Fire control and evacuation plans shall be kept current. Written observations of the effectiveness of the fire drill plan shall be filed and kept for at least three years.

(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 Code.

(c) Fire Drills During Resident Sleeping Hours. When drills are conducted between 9:00 PM and 6:00 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.

**Author:** Victor Hunt

**Statutory Authority:** *Code of Alabama, 1975, 222120, et. seq.*

**History: Repealed and Replaced:** Filed October 18, 2001; effective November 22, 2001. **AMENDED:** Filed September 22, 2008; effective October 27, 2008.

#### **420-5-4-.12 Physical Plant.**

##### **(1) General.**

##### **(a) 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 ~~g~~ Group or ~~e~~ 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 ~~e~~ Congregate facility or a ~~g~~ Group facility in accordance with the

licensed bed capacity of each, and the determination shall not be based on their combined bed capacity. Resident care and administrative requirements are found in sections 420-5-4-.01 through 420-5-4-.07 of these rules, and in sections 420-5-20-.01 through 420-5-20-.07 of the specialty care assisted living facility rules. Physical facility and building code requirements are found in sections 420-5-4-.08 and higher of these rules, and in sections 420-5-20-.08 and higher of the specialty care assisted living facility rules.

(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, certified for specialty care assisted living. Administrative, kitchen and service areas may be shared between the two licensed portions.

(b) 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 open areas, or 500 feet when separated by a boarded six feet high fence used to baffle any noise, from ~~adjacent to~~ railroads, freight yards, or disposal plants. This rule shall not prevent enlargement or expansion of existing assisted living facilities.

(c) 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.

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

(e) Occupancy. No part of an assisted living facility may be rented, leased, or used for any commercial purpose not reasonably necessary or related to the services the facility is licensed to provide. The Department shall approve all plans for occupancy.

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

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

(a) New Facilities, Additions, and Alterations. Plans and specifications shall be submitted for review and approval to the Alabama Department of Public Health, 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* Rule 420-5-22, "Submission of Plans and Specifications for Health Care Facilities."

**(3) 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 nonstationary windows shall be equipped with tightfitting, full length insect screens. Screen doors shall be equipped with selfclosing devices.

(e) Emergency Lighting. All assisted living facilities shall provide emergency 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.

(f) Floors. All floors shall be level, smooth and free of cracks and finished so that they can be easily cleaned. 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. Floors shall be kept clean.

(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. Nonstationary 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 8' 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) Floor Levels. Any differences in floor levels shall not prevent a resident from navigating safely throughout the facility. New R ramps and inclines in the path of egress, shall not be steeper than one foot of rise in twelve feet of run (1:12), existing

maximum slope shall not exceed a slope of 1:10, and shall be finished with a non-slip surface and shall be provided with handrails on both sides. If a facility houses wheelchair-bound residents, it shall have ramps or inclines.

(l) 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.

(m) Doors.

1. In each new Group and Congregate 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 doors in Group and Congregate facilities shall be at least three feet wide. Bedroom doors in Family assisted living facilities shall not be less than thirty-two inches wide.

4. Exterior egress doors shall not prevent free and unhindered egress from the facility. Delayed egress or 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 4 inch step down. Exit doors of Family facilities may swing inward.

(n) 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.

(o) 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.

(p) 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.

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

(r) 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.

(s) 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).

(t) Fire Alarm and Sprinkler System.

1. 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 of Public Health within 12 hours or no later than the next duty day, and shall be corrected expeditiously.

2. 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 2 years.

(u) Closure of an assisted living facility for a period of thirty days or longer shall cause its license to automatically lapse. Before the facility may reopen, it must submit a new application for licensure. The new license shall not be granted until the facility has received a certificate of completion from the Office of Facilities Management, Alabama Department of Public Health. This entails plan review and building inspection in the same manner as a facility that has never been licensed. Plan review shall follow the most recent code requirements for new construction.

(v) Exit Marking. In g Group and e 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.

(x) 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.

**(4) 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.

**(5) 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, Impractical Evacuation Capability (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 (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 twenty 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 on or after October 5, 2001. 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.

**(6) 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 *Life Safety Code* chapter for New Residential Board and Care Occupancies, Impractical Evacuation Capability, thereby requiring compliance with 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; and
6. Space and facilities for cleaning equipment and supplies.

**Author:** Victor Hunt

**Statutory Authority:** *Code of Alabama, 1975, 222120, et. seq.*

**History: Repealed and Replaced:** 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. Filed September 22, 2008; effective October 27, 2008.

**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 1997, No. 97-632, § 1; Act 2001, No. 1058.)

**§ 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 therefor. 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, No. 1058.)

**§ 22-21-24. License -- Fees; term; form; nontransferable; posting; renewal; hospital licensable when accredited by joint commission.**

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 chapter, 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, No. 1058.)

**§ 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, No. 1058.)

**§ 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 shall be appointed by the Alabama Hospice Association.

(8) Two members 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 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 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; Acts 1991, No. 91-548, p. 1010, § 1; Act 2001, No. 1058.)

#### **§ 22-21-28. Rules and regulations.**

(a) In the manner provided in this section, the State Board of Health, with the advice and after approval by the advisory board, shall have the power to make and enforce, and may modify, amend and rescind, reasonable rules and regulations governing the operation and conduct of hospitals as defined in Section 22-21-20. All such regulations shall set uniform minimum standards applicable alike to all hospitals of like kind and purpose in view of the type of institutional care being offered there and shall be confined to setting minimum standards of sanitation and equipment found to be necessary and prohibiting conduct and practices inimicable to the public interest and the public health. The board shall not have power to promulgate any regulation in conflict with law nor power to interfere with the internal government and operation of any hospital on matters of policy. The procedure for adopting, amending, or rescinding any rules authorized by this chapter shall conform to the Alabama Administrative Procedure Act. At

any public hearing called for the purpose of soliciting public comment on proposed rules, any interested hospital or any member of the public may be heard.

(b) Any person affected by any regulation, amendment, or rescission thereof may appeal consideration thereof to the circuit court of the county of that person's residence or in which that person does business or to the Circuit Court of Montgomery County, pursuant to the Alabama Administrative Procedure Act. And upon appeal, the question of the reasonableness of such regulation shall be a question of fact for the court to determine, and no presumption shall be indulged that the regulation adopted was and is a reasonable regulation.

(c) Regulations adopted under this section shall become effective as provided in the Alabama Administrative Procedure Act. (Acts 1949, No. 530, p. 835, § 8; Act 2001, No. 1058.)

### **§ 22-21-29. Inspections.**

(a) Every hospital licensed under this article shall be open to inspection to the extent authorized in this section by employees and agents of the State Board of Health, under rules as shall be promulgated by the board with the advice and consent of the advisory board. Employees and agents of the board shall also inspect unlicensed and suspected unlicensed facilities. Nothing in this section shall authorize the board to inspect quarters therein occupied by members of any religious group or nurses engaged in work in any hospital or places of refuge for members of religious orders for whom care is provided, but any inspection shall be limited and confined to the parts and portions of the hospital as are used for the care and treatment of the patients and the general facilities for their care and treatment. No hospital shall, by reason of this section, be relieved from any other types of inspections authorized by law.

(b) All inspections undertaken by the State Board of Health shall be conducted without prior notice to the facility and its staff. Notwithstanding the foregoing, an inspection of a hospital or other health care facility, prior to its licensure, may be scheduled in advance. An employee or contract employee of the state shall not disclose in advance the date or the time of an inspection of a hospital or other health care facility to any person with a financial interest in any licensed health care facility, to any employee or agent of a licensed health care facility, to any consultant or contractor who performs services for or on behalf of licensed health care facilities, or to any person related by blood or marriage to an owner, employee, agent, consultant, or contractor of a licensed health care facility. For purposes of this section, the term inspection shall include periodic and follow-up compliance inspections and surveys on behalf of the State Board of Health, complaint investigations and follow-up investigations conducted by the State Board of Health, and compliance inspections and surveys, complaint investigations, and follow-up visits conducted on behalf of the United States Department of Health and Human Services, Health Care Financing Administration, or its successors. The board may prescribe by rule exceptions to the prohibition where considerations of public health or safety make advance disclosure of inspection dates or times reasonable. Disclosure in advance of inspection dates when such disclosure is required or authorized pursuant to federal law or regulation shall not be a violation of this section. Scheduling inspections of hospitals or other health care facilities by the board at regular, periodic intervals which may be predictable shall not be a violation of this section.

(c) Any employee or contract employee of the state who discloses in advance the date or time of an inspection in violation of subsection (b) shall be guilty of a Class A misdemeanor. Any person who solicits an employee or contract employee of the state to disclose in advance the date or time of an inspection in violation of subsection (b) for the purpose of disclosing the

information to others shall be guilty of a Class A misdemeanor. (Acts 1949, No. 530, p. 835, § 6; Act 1997, No. 97-632, § 1; Act 2001, No. 1058.)

**§ 22-21-30. Disclosure of information.**

Information received by the State Board of Health through on-site inspections conducted by the State Licensing Agency is subject to public disclosure and may be disclosed upon written request. Information received through means other than inspection will be treated as confidential and shall not be directed publicly except in a proceeding involving the question of licensure or revocation of license. (Acts 1949, No. 530, p. 835, § 10; Acts 1975, 3rd Ex. Sess., No. 140, p. 383, § 3.)

**§ 22-21-31. Practice of medicine, etc., not authorized; child-placing.**

Nothing in this article shall be construed as authorizing any person to engage in any manner in the practice of medicine or any other profession nor to authorize any person to engage in the business of child-placing. Any child born in any such institution whose mother is unable to care for such child or any child who, for any reason, will be left destitute of parental support shall be reported to the Department of Human Resources or to any agency authorized or licensed by the Department of Human Resources to engage in child placing for such service as the child and the mother may require. In the rendering of service, representatives of the Department of Human Resources and agencies authorized or licensed by the Department of Human Resources shall have free access to visit the child and the mother concerned. (Acts 1949, No. 530, p. 835, § 2; Acts 1962, Ex. Sess., No. 122, p. 157, § 2; Act 2001, No. 1058.)

**§ 22-21-32.** Repealed by Acts 1977, 1st Ex. Sess., No. 82, p. 1509, § 19, effective June 16, 1977.

**§ 22-21-33. Penalty for violation of article, etc.**

Any individual, association, corporation, partnership, limited liability company, or other business entity who operates or causes to be operated a hospital of any kind as defined in this chapter or any regulations promulgated thereunder without having been granted a license therefore by the State Board of Health shall be guilty of a Class A misdemeanor upon conviction except that the fine may be up to five thousand dollars (\$5,000) upon conviction of a second or any subsequent offense. The State Board of Health, upon determination that a facility or business is operating as a hospital within the meaning of this statute or any rules promulgated thereunder, and that the facility does not have a current, valid license granted by the State Board of Health, may apply to the circuit court of the county in which the unlicensed facility is located for declaratory and injunctive relief. The proceedings shall be expedited. The sole evidentiary questions before the court in a proceeding shall be whether the facility that is the subject of the action meets the definition of a hospital within the meaning of this chapter and any rules promulgated thereunder, and whether the facility has been granted a current and valid license to operate by the State Board of Health. If the State Board of Health prevails on these questions, then the court shall, upon request of the State Board of Health, forthwith grant declaratory and injunctive relief requiring the operator or operators to close the facility and requiring the operator or operators to move all residents or patients to appropriate placements. Any individual failing to obey an injunction to close a hospital shall be guilty of a Class A misdemeanor except that the fine may be up to five thousand dollars (\$5,000). Any individual, after having once been subject to such an injunction, who shall later operate or cause to be operated a hospital as defined in this chapter or any regulations promulgated thereunder without having been granted a license therefore by the State Board of Health shall be guilty of a Class A misdemeanor except that the

fine may be up to five thousand dollars (\$5,000). The State Board of Health may, upon the advice of the Attorney General, maintain an action in the name of the state for an injunction to restrain any state, county or local governmental unit, or any division, department, board or agency thereof, or any individual, association, corporation, partnership, limited liability company, or other business entity, from operating, conducting or managing a hospital in violation of any provisions of this article, or any regulation promulgated thereunder. No county or municipality shall grant a business license to a hospital as defined in this chapter unless the facility holds a current license to operate granted by the State Board of Health. In any action to collect a fee for services brought against a resident or patient by a hospital as defined in this chapter or regulations promulgated thereunder, it shall be a defense to the action to demonstrate that the operator of the hospital did not have a current, valid license to operate pursuant to this chapter at the time the services in question were rendered. (Acts 1949, No. 530, p. 835, § 12.)

Act 2001, No. 1058. Under the circumstances listed below, an assisted living facility or a specialty care assisted living facility rising to the level of intermediate care may be subject to a civil money penalty imposed by the Board of Health not to exceed ten thousand dollars (\$10,000) per instance. The imposition of the penalty may be appealed pursuant to the provisions of the Alabama Administrative Procedure Act. All money penalties imposed pursuant to this section shall be remitted to the Department of Public Health and shall be deposited in the State General Fund. The penalties shall be deposited in the General Fund and shall not be earmarked for the Department of Public Health. Failure of an assisted living facility or a specialty care assisted living facility rising to the level of intermediate care to pay a civil money penalty within 30 days after its imposition or within 30 days after the final disposition of any appeal shall be grounds for license revocation unless arrangements for payment are made that are satisfactory to the State Board of Health. No assisted living facility or specialty care assisted living facility rising to the level of intermediate care may renew its license to operate if it has any unpaid civil money penalties which were imposed more than 30 days prior to the facility's license expiration date, except for any penalties imposed which are still subject to appeal and except for penalties for which arrangements for payment have been made that are satisfactory to the State Board of Health.

A civil money penalty may be imposed for falsification of any record kept by an assisted living facility or specialty care assisted living facility rising to the level of intermediate care, including a medication administration record or any record or document submitted to the State Board of Health, by an employee or agent of the facility, where such falsification is deliberate and undertaken with intent to mislead the Board of Health, or its agents or employees, or residents, sponsors, family members, another state, county, or municipal government agency, or the public, about any matter of legal compliance, regulatory compliance, compliance with fire or life safety codes, or quality of care.

A civil money penalty may be imposed as a result of a false statement made by an employee or agent of an assisted living facility or a specialty care assisted living facility rising to the level of intermediate care to an employee or agent of the State Board of Health, if the statement is made with intent to deceive or mislead the Board of Health, its agents or employees, about any matter of legal compliance, regulatory compliance, compliance with fire or life safety codes, or quality of care. A civil money penalty shall not be imposed if the facility's employee or agent makes a false statement when he or she has no reason to believe the false statement is authorized by the administrator or operator of the facility and if it is likely that the facility's employee or agent made the statement with the intent to cause damage to the facility.

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