

## Notice of Proposed Rule

**AGENCY FOR HEALTH CARE ADMINISTRATION****Health Facility and Agency Licensing**

RULE NO: RULE TITLE

[59A-4.103](#): Licensure, Administration and Fiscal Management[59A-4.106](#): Facility Policies[59A-4.107](#): Physician Services[59A-4.1075](#): Medical Director[59A-4.108](#): Nursing Services[59A-4.109](#): Resident Assessment and Care Plan[59A-4.110](#): Dietary Services[59A-4.112](#): Pharmacy Services[59A-4.118](#): Medical Records[59A-4.122](#): Physical Environment[59A-4.123](#): Risk Management and Quality Assurance[59A-4.1235](#): Liability Claims[59A-4.126](#): Disaster Preparedness[59A-4.128](#): Evaluation of Nursing Homes and Licensure Status[59A-4.1285](#): Respite Care[59A-4.1288](#): Exception[59A-4.1295](#): Additional Standards for Homes That Admit Children 0 Through 20 Years of Age[59A-4.130](#): Fire Prevention, Fire Protection, and Life Safety[59A-4.133](#): Plans Submission and Review and Construction Standards[59A-4.134](#): Plans Submission and Fee Requirements[59A-4.150](#): Geriatric Outpatient Nurse Clinic[59A-4.165](#): Nursing Home Guide[59A-4.166](#): Nursing Home Consumer Satisfaction Survey

PURPOSE AND EFFECT: The purpose of the proposed rule amendment is to incorporate changes in the authorizing statute and revise technical errors and update references.

SUMMARY: The Agency proposes to amend Rule 59A-4.103, F.A.C., to include provisions for initial and change of ownership applications or suspension of a current license when licensure fees are returned to the Agency due to insufficient funds. This section also includes specifications regarding the issuance of partial inactive licenses for alternative uses pursuant to Section 400.0712, Florida Statutes (F.S.). Other changes to this section include the incorporation of modifications to the licensure application, technical changes clarifying the submission process for required reports to the Agency and defining days as "calendar" days. Proposed amendments to Rule 59A-4.106, F.A.C., include providing a web address for obtaining transfer and discharge forms, deleting a reference to services provided by the Department of Children and Families, presenting criteria for a Do Not Resuscitate Order (DNRO), incorporating references to federal guidelines and providing a specific address to obtain copies of "Health Care Advance Directives." Rule 59A-4.108, F.A.C., updates statutory references for facility staffing in accordance with state law, and establishes requirements for requesting the use of licensed nurses to perform licensed nursing and certified nursing assistant duties.

Proposed amendments to Rule 59A-4.110, F.A.C., include a technical change to the position title of director of food service and replace the outdated references to the Dietary Managers training and certification process. Amendments to Rule 59A-4.112, F.A.C., include technical changes for the terminology of the Emergency Drug Kit. A proposed amendment to Rule 59A-4.122, F.A.C., includes details for the placement of a resident's bed and further defines the requirement for a closet and comfortable room temperatures. Changes to Rule 59A-4.123, F.A.C., incorporate revisions to the 1-day Adverse Incident Reporting Form, provide for electronic submission of this form and clarify when events reported to law enforcement are considered adverse incidents.

Rule 59A-4.1235, F.A.C., is amended to incorporate revisions to the Liability Claims form and provides for the electronic submission of this form. A proposed amendment to Rule 59A-4.126, F.A.C., provides language regarding the submission of the emergency management plan, testing of this plan, and procedures and notifications for

evacuation, overcapacity and re-occupancy of the nursing home structure during a disaster. An amendment to Rule 59A-4.128, F.A.C., removes the measurement of deficiencies in terms of scope and severity for state licensure. The establishment of Rule 59A-4.1285, F.A.C., provides requirements for developing and implementing a respite care program for nursing home licensees that choose to provide such a service. A proposed change to Rule 59A-4.1288, F.A.C., incorporates reference to federal regulations established since 1991. Amendments to Rule 59A-4.1295, F.A.C., include technical changes, clarification of requirements for the approval to initiate, expand or suspend pediatric services, repeal staffing requirements that are in conflict with Ch. 400, F.S., and provides reference to the Florida Building Code 2004 Edition, including all supplements in effect as of December 2006 and removal of language as required by statutory changes. Proposed amendments to Rule 59A-4.130, F.A.C., provide revised language to conform to code edition changes and retain language not included in the Florida Building Code. A proposed amendment to Rule 59A-4.133, F.A.C., provides language to reference the Florida Building Code to conform to statutory changes, and deletes all other requirements. Proposed new Rule 59A-4.134, F.A.C., revises the requirements for construction plans submission to conform to codes and statutory changes. Amendments to Rule 59A-4.150, F.A.C., delete or correct several recurring or obsolete definitions and references throughout the section. Proposed changes to Rule 59A-4.165, F.A.C., replace the reference to a 45-month reporting period in the Nursing Home Guide with language that cites the time period defined in Section 400.191, F.S. Rule 59A-4.166, F.A.C., regarding the Nursing Home Consumer Satisfaction Survey is abolished due to repeal of the statutory authority. Other revisions are made throughout the Chapter to correct technical errors and update references.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A Statement of Estimated Regulatory Cost has been prepared.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: [400.23 FS](#).

LAW IMPLEMENTED: [400.011](#), [400.022](#), [400.141](#), [400.142](#), [400.23 FS](#).

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: Tuesday, June 30, 2009, 10:00 a.m.

PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Conference Room D, Tallahassee, Florida 32308

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Terrosa Buie, Agency for Health Care Administration, 2727 Mahan Drive, MS #33, Tallahassee, FL 32308

THE FULL TEXT OF THE PROPOSED RULE IS:

59A-4.103 Licensure, Administration and Fiscal Management.

(1) The licensee or applicant ~~must~~ ~~prospective licensee shall~~ make application for an initial, renewal or change of ownership license to operate a nursing home facility and ~~must~~ ~~shall~~ provide:

(a) ~~All~~ of the information required by this rule and ~~Chapter~~ 400, Part II, F.S., on AHCA Form 3110-6001, December 2008, "Health Care Licensing Application – Nursing Homes" incorporated by reference. ~~January 2002, "Application for Nursing Home Licensure," and~~

~~AHCA Form 3001-6001, January 2002, Instructions for Completing Application for Nursing Home Licensure, which is incorporated by reference; and~~

~~AHCA Forms 3110-0011, 3110-0011A, 3110-0011B, and 3110-0011C, and 3110-0011D, August 2001, "Controlling Interest Affidavit for Nursing Homes," which are incorporated by reference; and~~

(b) AHCA Form ~~3100-0009, June 2007~~ ~~4332-0001, January 2002~~, "Proof of Financial Ability to Operate ~~Schedule~~," which is incorporated by reference, available from the Agency for Health Care Administration, Long Term Care Unit, 2727 Mahan Drive, MS 33, Tallahassee, FL 32308 or online at: <http://ahca.myflorida.com/>.

(2) The licensure fee ~~must~~ ~~shall~~ be included with the application. ~~A biennial~~ ~~An annual~~ fee of \$100 ~~is~~ \$50 per bed is required as described in Section 400.062(3), Florida Statutes (F.S.), plus the resident protection fee of ~~\$.50~~ \$25 per bed and the Data Collection and Analysis Assessment of ~~\$12.00~~ \$6.00 per bed as authorized by Section 408.20(1)(b), F.S., Assessments; Health Care Trust Fund Costs of Nursing Home Statistical Unit, March 9, 1994. The Data Collection and Analysis Assessment is waived for facilities having a certificate of authority under ~~Chapter~~ 651, F.S. A license for an initial or change of ownership application will be denied if the check for the application fee is dishonored. If a check for the renewal licensure fee is dishonored and returned to the Agency, the licensee will have ten business days to pay the full amount plus any applicable fees as provided by law. This payment must be received in the form of a money order or cashier's check. In the event that the fees are not paid the license may be subject to suspension.

(3) Single copies of AHCA forms incorporated by reference within this chapter may be obtained from the Agency for Health Care Administration, Long Term Care Section, 2727 Mahan Drive, MS 33, Tallahassee, FL 32308 or web address: <http://ahca.myflorida.com/>. Information regarding the electronic submission of reports to the Agency may be found at: <http://ahca.myflorida.com/reporting/index.shtml>.

(4) A nursing home licensee may request an inactive license for part of a facility as specified in Section 400.0712, F.S., to use an unoccupied contiguous portion of the facility for an alternative use to meet the needs of elderly persons. Prior to providing alternative services, the facility must submit a written request to the Agency. A request may be submitted at any time during the licensure period and must include the intended use of the inactive portion; a schematic drawing of the floor plan of the building identifying the inactive area; the total number of inactive beds and the prospective date the beds will become inactive.

(a) Upon receipt of written approval by the Agency to continue with the plan for the partial inactive license, the licensee must submit to the Agency AHCA Form 3110-6001, June 2008, "Health Care Licensing Application – Nursing Homes" within 60 days of the approval and a bed change request form for beds certified through the Centers for Medicare and Medicaid Services. The appropriate licensure application for the alternative use must accompany this application, unless the space will be utilized for services authorized under the existing nursing home license.

(b) If the alternative service license is approved, a partial inactive license will be issued concurrently with the issuance of the license for the alternative use. The expiration date of the partial inactive license will coincide with the licensee's nursing home renewal. The licensee must indicate the intent to continue the partial inactive license at each nursing home licensure renewal. Licensure fees will remain at the standard rate for nursing home beds, whether active or inactive, at the time of renewal and will not be assessed for another Agency license requested for the alternative use of the inactive beds.

(c) Notification to reactivate the inactive portion of the building must be submitted to the Agency at least 30 days prior to the planned date to admit residents to the previously inactive beds. The inactive portion will be reactivated upon agency approval which may include an onsite inspection.

(5)(4) Administration.

(a) The nursing home licensee shall have full legal authority and responsibility for the operation of the facility.

(b) The licensee of each facility ~~must shall~~ designate one person, who is licensed by the ~~Department of Health Agency for Health Care Administration~~, Board of Nursing Home Administrators under ~~C~~chapter 468, Part II, F.S., as administrator who oversees the day-to-day administration and operation of the facility.

(c) Each nursing home ~~must shall~~ be organized according to a written Table of Organization.

(d) ~~By the 10th calendar day of each month, the~~ ~~The~~ licensee ~~must shall~~ submit to the Agency the monthly vacant bed report reflecting the number of beds available for occupancy on the last day of the preceding month. The ~~a~~ monthly vacant bed report ~~which~~ is incorporated by reference ~~as by using~~ AHCA Form 3110-0013, ~~January 2002~~ October 2008, "Nursing Home Monthly Bed Vacancy Report," ~~as~~ authorized by Section 400.141, F.S. This form is available from the Agency for Health Care Administration, Long Term Care Unit, 2727 Mahan Drive, MS 33, Tallahassee, FL 32308 or online at: <http://ahca.myflorida.com/>.

(e) Each nursing home licensee ~~must submit to the Agency each quarter, no later than the 15th of the month following the end of the quarter, the~~ ~~Submit~~ Nursing Home Staffing Report which is incorporated by reference ~~as by using~~ AHCA Form 3110-0012, October 2008, ~~January, 2002~~ "Nursing Home Staffing Report" as authorized by Section 400.141, F.S. This form is available from the Agency for Health Care Administration, Long Term Care Unit, 2727 Mahan Drive, MS 33, Tallahassee, FL 32308 or online at: <http://ahca.myflorida.com/>.

(f) Information required in subsections (d) and (e) may be submitted electronically to the Agency at: [ahca.myflorida.com/reporting/index.shtml](http://ahca.myflorida.com/reporting/index.shtml).

(6)(5) Fiscal Management.

(a) The licensee ~~must shall~~ maintain fiscal records for each nursing home it operates in accordance with the requirements of ~~C~~chapter 400, Part II, F.S., and ~~this rule these Rules~~.

(b) An accrual or cash system of accounting ~~must shall~~ be used to reflect transactions of the business. Records and accounts of transactions, such as general ledgers and disbursement journals, ~~must shall~~ be brought current no less than quarterly and ~~must shall~~ be available for review by authorized representatives of appropriate ~~s~~State and ~~f~~Federal agencies.

(c) A licensee ~~must shall~~ obtain a surety bond as required by ~~C~~chapter 400, Part II, F.S. It ~~must shall~~ be based on twice the average monthly balance in the resident trust fund during the prior fiscal year or \$5,000, whichever is greater. A licensee who owns more than one nursing home may purchase a single surety bond to cover the residents' funds held in nursing homes located within the same Agency geographic region as defined in the AHCA "Nursing Home Guide Performance Measures Algorithm" dated July 2000. ~~AHCA service district~~. A surety bond ~~must shall~~ contain substantially the same language as is found in AHCA Form 3110-6002, ~~May 2008 July 2001~~, Nursing Home

Patient Trust Surety Bond, which is incorporated by reference, may be obtained from the Agency or online at: <http://ahca.myflorida.com/>. The surety bond, ~~AHCA 3110-6002, July 2001, may be obtained from and must shall~~ be filed with the Agency for Health Care Administration, 2727 Mahan Drive, MS 33, Tallahassee, FL 32308.

(d) A self-insurance pool, which may be an interest bearing account, may be established to provide compensation to any resident suffering financial loss in accordance with the provisions of Section 400.162(5)(c), F.S., as the result of one or more of the member licensees violating any of the provisions of Section 400.162, F.S.

1. Such self-insurance pool ~~must shall~~ be administered under the direction of an elected board of trustees. The membership of the board of trustees ~~must shall~~ be composed of one representative from each participating licensee.

2. An application for establishing a self-insurance pool ~~must shall~~ be made by the trustees to the Agency AHCA. Such application ~~must shall~~ contain the following information: the names, complete addresses, and affiliation of the trustees; the name and complete address of each licensee participating in the pool; the total dollar amount of the pool; and the name and complete address of the bank in which the account is maintained, including the account number. The application ~~must shall~~ be accompanied by:

a. An individual application from each licensee applying for membership in the self-insurance pool. Such application ~~must shall~~ contain the following information: the name, telephone number, and complete address of the facility; the name, telephone number, and complete address of the licensee; the name of the facility's administrator, manager or supervisor; his or her license and renewal number; the names of all employees involved in the administration of the resident trust fund account; the average monthly balance in the resident trust fund account during the prior year; the total dollar amount the licensee has deposited in the self-insurance pool; and the name and complete address of the bank in which the account is maintained, including the account number.

b. Prima facie evidence showing that each individual member of the pool has deposited an amount equal to twice the average monthly balance of the trust fund account or \$5,000.00 dollars, whichever is greater, in a separate account maintained by the board of trustees in the name of the self-insurance pool in a ~~chartered commercial~~ bank authorized under Chapter 658, F.S., that is a member of the Federal Reserve System, in the State of Florida to secure performance of payment of all lawful awards made against any member or members of the self-insurance pool, Section 400.162(5), F.S., and ~~this rule these Rules~~.

3. After the inception date of the pool, prospective new members of the pool ~~must shall~~ submit an application for membership to the board of trustees. Such application ~~must shall~~ contain the information specified in subparagraph ~~(5)(b)2 (6)(d)~~. The trustees may approve the application for membership in accordance with ~~this rule these Rules~~. If so approved, the application for membership in accordance with ~~this rule these Rules shall~~ be filed with the Agency AHCA. Participation in a pool by a particular licensee ~~must shall~~ be approved by the Agency if the licensee indicates in its application that it does meet the requirements of Section 400.162(5), F.S., and ~~this rule these Rules~~ and verification is provided to document the financial status indicated on the application.

4. The amount deposited in such an account ~~must shall~~ be maintained at all times.

(e) If, at any time during the period for which a license is issued, a licensee who has not purchased a surety bond or entered into a self-insurance agreement is requested to hold funds in trust as provided in Section 400.162(5), F.S., the licensee ~~must shall~~ notify the Agency AHCA in writing ~~of the request~~ and make application for a surety bond or for participation in a self-insurance agreement within seven business days of the request; ~~exclusive of weekends and holidays~~. Copies of the application, along with written documentation of related correspondence with an insurance agency or group ~~must shall~~ be maintained and ~~must shall~~ be available for review. All notices required by this ~~Rule~~ provision ~~must shall~~ be sent to the Agency for Health Care Administration AHCA, 2727 Mahan Drive, MS 33, Tallahassee, FL 32308.

Rulemaking Specific Authority 400.23 FS. Law Implemented 400.022, 400.071~~2071~~, 400.102, 400.111, 400.1183, 400.121, 400.141, 400.147, 400.151, 400.162, 400.179, 400.18, 400.232, 408.20 FS. History—New 4-1-82, Amended 4-1-84, 8-1-85, 1-1-86, 11-12-89, 12-25-90, 10-6-91, Formerly 10D-29.103, Amended 4-18-94, 2-6-97, 5-5-02, \_\_\_\_\_.

#### 59A-4.106 Facility Policies.

(1) Admission, retention, transfer, and discharge policies:

(a) Upon request and in a language the resident or his ~~her~~ or her representative understands, at the time of admission and as changes are being made, each resident ~~must will~~ receive:

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

(b) Each resident admitted to the facility ~~must shall~~ have a contract in accordance with Section 400.151, F.S., which covers:

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

reservation and refund policies of the facility.

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

(c) No resident who is suffering from a communicable disease shall be admitted or retained unless the medical director or attending physician certifies that adequate or appropriate isolation measures are available to control transmission of the disease.

(d) Residents ~~must may~~ not be retained in the facility ~~if they that~~ require services beyond those for which the facility is licensed or has the functional ability to provide as determined by the medical director and the director of nursing in consultation with the facility administrator.

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

(f) All resident transfers and discharges ~~must shall~~ be in accordance with the facility's policies and procedures, provisions of Sections 400.022 and 400.0255, F.S., this rule, and other applicable ~~s~~State and ~~f~~Federal laws and will include notices provided to residents which are incorporated by reference by using AHCA Form 3120-0002, 3120-0002A, ~~Revised~~, May 2001, "Nursing Home Transfer and Discharge Notice," and 3120-0003, ~~Revised~~, May 2001, "Fair Hearing Request For Transfer or Discharge From a Nursing Home," and 3120-0004, ~~December 2007 Revised~~, ~~May, 2001~~, "Long-Term Care Ombudsman Council Request for Review of Nursing Home Discharge and Transfer." These forms may be obtained from the Agency for Health Care Administration, Long Term Care Unit, 2727 Mahan Drive MS 33, Tallahassee, FL 32308 or at the web address: <http://ahca.myflorida.com/>. ~~The Department of Children and Family Services will assist in the arrangement for appropriate continued care, when requested.~~

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

(3) All policies and procedures ~~must shall~~ be reviewed at least annually and revised, as needed with input from, at minimum, the facility administrator, medical director, and director of nursing.

(4) Each ~~licensee must facility shall~~ maintain policies and procedures in the following areas:

- (a) Activities;
- (b) Advance directives;
- (c) Consultant services;
- (d) Death of residents in the facility;
- (e) Dental services;
- (f) Staff education, including HIV/AIDS training in accordance with Section 381.0035, F.S.;
- (g) Diagnostic services;
- (h) Dietary services;
- (i) Disaster preparedness;
- (j) Fire prevention and control;
- (k) Housekeeping;
- (l) Infection control;
- (m) Laundry service;
- (n) Loss of power, water, air conditioning or heating;
- (o) Medical director/consultant services;
- (p) Medical records;
- (q) Mental health;
- (r) Nursing services;
- (s) Pastoral services;
- (t) Pharmacy services;
- (u) Podiatry services;
- (v) Resident care planning;
- (w) Resident identification;
- (x) Resident's rights;
- (y) Safety awareness;
- (z) Social services;
- (aa) Specialized rehabilitative and restorative services;
- (bb) Volunteer services; and

(cc) The reporting of accidents or unusual incidents involving any resident, staff member, volunteer or visitor. This policy ~~must shall~~ include reporting within the facility and to ~~the Agency AHCA~~.

## (5) Staff Education.

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

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

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

1. Prevention and control of infection;
2. Fire prevention, life safety, and disaster preparedness;
3. Accident prevention and safety awareness program;
4. Resident's rights;
5. Federal law, 42 CFR 483, Requirements for States and Long Term Care Facilities, October 1, 2006 ~~September 26, 1991~~, including any amendments integrated since 2006, which is incorporated by reference and ~~State Rules and Regulations, Chapter 400, Part II, F.S., and this rule;~~
6. ~~The Florida "Right to Know" Hazardous Materials, Chapter 442, F.S.;~~

(d) The staff education plan ~~must shall~~ ensure that all ~~non-licensed~~ employees of the nursing home complete an ~~initial~~ educational course on HIV/AIDS in accordance with Section 381.0035, F.S. If the employee does not have a certificate of completion at the time they are hired, they must ~~complete the course~~ ~~have two hours~~ within six months of employment or before the staff provides care for an HIV/AIDS diagnosed resident. ~~All employees shall have a minimum of one hour biennially.~~

## (6) Advance Directives.

(a) Each nursing home licensee ~~must shall~~ have written policies and procedures, which delineate the nursing home's position with respect to the state law and rules relative to advance directives. The policies ~~must shall~~ not condition treatment or admission upon whether or not the individual has executed or waived an advance directive. In the event of conflict between the facility's policies and procedures and the individual's advance directive, provision should be made in accordance with Section 765.308, F.S.

~~(b)(7)~~ The facility's policy ~~must shall~~ include:

~~1.(a)~~ Providing each adult individual, at the time of the admission as a resident, with a copy of "Health Care Advance Directives – The Patient's Right to Decide," as prepared by the Agency for Health Care Administration, Florida Center for Health Information and Policy Analysis, April 2006, ~~effective 1-11-93~~, which is hereby incorporated by reference, or with a copy of some other substantially similar document which is a written description of Florida's state law regarding advance directives. ~~A copy of the "Health Care Advance Directives – The Patient's Right to Decide," may be obtained from the Florida Center for Health Information and Policy Analysis at 2727 Mahan Drive, MS 16, Tallahassee, FL 32308, or electronically at [ahca.myflorida.com/MCHQ/Health\\_Facility\\_Regulation/HC\\_Advance\\_Directives/](http://ahca.myflorida.com/MCHQ/Health_Facility_Regulation/HC_Advance_Directives/).~~

~~2.(b)~~ Providing each adult individual, at the time of the admission as a resident, with written information concerning the nursing home's policies respecting advance directives; and

~~3.(c)~~ The requirement that documentation of the existence of an advance directive be contained in the medical record. A nursing home licensee ~~that which~~ is provided with the individual's advance directive ~~must shall~~ make the advance directive or a copy thereof a part of the individual's medical record.

(c) Pursuant to Section 400.142(3), F.S., a nursing home may honor a Do Not Resuscitate Order (DNRO) as follows:

1. Cardiopulmonary resuscitation may be withheld or withdrawn from a patient only if a valid DNRO is present and executed pursuant to Section 401.45, F.S.

2. Facility staff and nursing home licensees shall not be subject to criminal prosecution or civil liability, nor be considered to have engaged in negligent or unprofessional conduct for withholding or withdrawing cardiopulmonary resuscitation pursuant to such a DNRO.

Rulemaking Specific Authority 400.141, 400.141(7), 400.142(3), 400.23, 765.110 FS. Law Implemented 400.022, 400.0255, 400.102, 400.141, 400.141(7), 400.151, 400.23, 765.110 FS. History--New 4-1-82, Amended 4-1-84, Formerly 10D-29.106, Amended 4-18-94, 1-10-95, 2-6-97, 5-5-02,\_\_\_\_\_.

## 59A-4.107 Physician Services.

(1) Each nursing home licensee ~~must facility shall~~ retain, pursuant to a written agreement, a physician licensed under Chapter 458 or 459, F.S., to serve as Medical Director. In facilities with a licensed capacity of 60 beds or less, pursuant to written agreement, a physician licensed under Chapter 458 or 459, F.S., may serve as Medical Consultant in lieu of a Medical Director.

(2) Each resident or legal representative, ~~must shall~~ be allowed to select his or her own private physician.

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

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

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

(6) Each resident ~~must shall~~ be seen by a physician or another licensed health professional acting within their scope of practice at least once every 30 days for the first 90 days after admission, and at least once every 60 days thereafter. A physician visit is considered timely if it occurs not later than 10 days after the date the visit was required. If a physician documents that a resident does not need to be seen on this schedule and there is no other requirement for physician's services that must be met due to Title XVIII or XIX, the resident's physician may document an alternate visitation schedule.

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

(8) Each nursing home licensee must maintain facility shall have a list of physicians designated to provide emergency services to residents when the resident's attending physician; or designated alternate is not available. Rulemaking Specific Authority 400.23 FS. Law Implemented 400.022, 400.102, 400.141, 400.23, 464.012 FS. History--New 4-1-82, Amended 4-1-84, Formerly 10D-29.107, Amended 10-5-92, 4-18-94, 1-10-95, \_\_\_\_\_.

#### 59A-4.1075 Medical Director.

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

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

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

(c) A physician must have his or her principal office within 60 miles of all facilities for which he/she serves as Medical Director. The pPrincipal office is the office maintained by a physician pursuant to Section 458.351 or 459.026, F.S., and where the physician delivers the majority of medical services. The physician must specify the address of his/her or her principal office at the time of becoming Medical Director. The Agency may approve a request to waive this requirement for rural facilities that exceed this distance requirement. A rural facility is a facility located in a county with a population density of no greater than 100 persons per square mile, which is at least 30 minutes of travel time, on normally traveled roads under normal traffic conditions, from any other nursing home facility within the same county.

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

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

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

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

Rulemaking Specific Authority 400.141 FS. Law Implemented 400.141(2) FS. History--New 8-2-01, Amended \_\_\_\_\_.

#### 59A-4.108 Nursing Services.

(1) The administrator of each nursing home ~~must will~~ designate one full-time registered nurse as a director of

nursing (DON) who shall be responsible and accountable for the supervision and administration of the total nursing services program. When a director of nursing is delegated institutional responsibilities, a full-time qualified registered nurse (RN) as defined in Chapter 464, F.S., shall be designated to serve as assistant director of nursing. In a facility with a census of 121 or more residents, a registered nurse ~~an~~ registered nursing must be designated as an assistant director of nursing.

(2) Persons designated as director of nursing or assistant director of nursing ~~must shall~~ serve only one nursing home facility in this capacity, and shall not serve as the administrator of the nursing home facility.

(3) The director of nursing ~~must shall~~ designate one licensed nurse on each shift to be responsible for the delivery of nursing services during that shift.

(4) ~~In addition to the requirements outlined in subsection 400.23(3)(a), F.S., the nursing home licensee must facility shall~~ have sufficient nursing staff, on a 24-hour basis to provide nursing and related services to residents ~~in order~~ to maintain the highest practicable physical, mental, and psychosocial well-being of each resident, as determined by resident assessments and individual plans of care. ~~The facility will staff, at a minimum;~~

~~1. an average of 1.7 hours of certified nursing assistant and 6 hours of licensed nursing staff time for each resident during a 24 hour period;~~

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

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

(7) Upon approval by the Agency a nursing home licensee may allow a licensed nurse that performs both licensed nurse and certified nursing assistant duties during the same shift to divide the hours of patient care provided between the licensed nurse and certified nursing assistant staffing ratio requirements consistent with services provided. Approval to utilize licensed nurses to perform certified nursing assistant duties must be requested in writing. This request can be done upon license renewal on AHCA Form #3110-6001, December 2008, "Health Care Licensing Application – Nursing Homes" or by letter from the facility's administrator. The licensee must document daily the time the licensed nurse performed personal care services to comply with minimum staffing requirements. ~~Rulemaking Specific Authority 400.022, 400.23 FS. Law Implemented 400.011, 400.022, 400.141, 400.23 FS. History–New 4-1-82, Amended 4-1-84, 8-1-85, 7-1-88, 7-10-91, Formerly 10D-29.108, Amended 4-18-94,\_\_\_\_\_.~~

#### 59A-4.109 Resident Assessment and Care Plan.

(1) Each resident admitted to the nursing home facility ~~must shall~~ have a plan of care. The plan of care ~~must shall~~ consist of:

(a) Physician's orders, diagnosis, medical history, physical exam and rehabilitative or restorative potential.

(b) A preliminary nursing evaluation with physician's orders for immediate care, completed ~~upon~~ ~~on~~ admission.

(c) A complete, comprehensive, accurate and reproducible assessment of each resident's functional capacity which is standardized in the facility, and is completed within 14 days of the resident's admission to the facility and every ~~12~~ ~~twelve~~ months, thereafter. The assessment ~~must shall~~ be:

1. Reviewed no less than once every ~~three~~ ~~3~~ months,

2. Reviewed promptly after a significant change in the resident's physical or mental condition,

3. Revised as appropriate to assure the continued accuracy of the assessment.

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

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

(4) All staff personnel who provide care, and at the resident's option, private duty nurses or ~~persons who are not non~~ employees of the facility, ~~must shall~~ be knowledgeable of, and have access to, the resident's plan of care.

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

~~Rulemaking Specific Authority 400.23 FS. Law Implemented 400.022, 400.102, 400.141, 400.23 FS. History–New 4-1-82, Amended 4-1-84, Formerly 10D-29.109, Amended 4-18-94, 1-10-95,\_\_\_\_\_.~~

(Substantial rewording of Rule 59A-4.110 follows. See Florida Administrative Code for present text.)

59A-4.110 Dietary Services.

(1) The licensee must have a qualified dietitian on staff or through consultation services. A qualified dietitian is one who:

(a) Is a registered dietitian as defined in subsection 468.503(11), F.S. and is currently registered with the American Dietetic Association; or

(b) Has a baccalaureate degree with major studies in food and nutrition, dietetics, or food service management, in a program accredited by Commission on Accreditation for Dietetics Education (CADE), of the American Dietetic Association as found on [www.eatright.org/cps/rde/xchg/ada/hs.xsl/CADE.html](http://www.eatright.org/cps/rde/xchg/ada/hs.xsl/CADE.html), which is incorporated by reference; has one year of supervisory experience in the dietetic service of a health care facility, and participates annually in continuing dietetic education.

(2) The administrator must designate one full-time person as a director of food services. In a facility with a census of 61 or more residents, the duties of the director of food services must not include food preparation or service on a regular basis.

(3) The director of food services must be a qualified dietitian or he/she must meet one of the following requirements set forth in subsections 59A-4.110(3)(a) through (d), F.A.C. Effective January 1, 2011, the director of food services must be a qualified dietitian or have successfully completed an associate degree program that meets the education standard established by the American Dietetic Association, or must be a Certified Dietary Manager through the Dietary Managers Association and maintain continuing education as set forth by the certifying board.

(a) Successfully complete a dietetic assistant correspondence or class room training program, approved by the American Dietetic Association. This training program is the dietary managers' course formerly administered by the Dietary Managers Association; or

(b) Successfully complete a course offered by an accredited college or university that provided 90 or more hours of correspondence or classroom instruction in food service supervision, and has prior work experience as a dietary supervisor in a health care institution with consultation from a qualified dietitian; or

(c) Have training and experience in food service supervision and management in the military service equivalent in content to the programs described in this subsection; or

(d) Successfully complete an associate degree program that meets the education standard established by the American Dietetic Association.

(4) A one-week supply of a variety of non-perishable food and supplies, which represents a nourishing diet based on generally accepted standards of proper nutrition, must be maintained in the facility.

Rulemaking Specific Authority 400.022(1)(a), (f), (g), 400.141(5), 400.23 FS. Law Implemented 400.022, 400.102, 400.141, 400.23 FS. History—New 4-1-82, Amended 4-1-84, 7-1-88, 7-10-91, Formerly 10D-29.110, Amended 4-18-94, 2-6-97, \_\_\_\_\_.

59A-4.112 Pharmacy Services.

(1) The nursing home licensee must ~~facility shall~~ adopt procedures that assure the accurate acquiring, receiving, dispensing, and administering of all drugs and biologicals, to meet the needs of each resident.

(2) The nursing home licensee must ~~facility shall~~ employ, or obtain, the services of a state licensed consultant pharmacist. A consultant pharmacist is a pharmacist who is licensed by the ~~Department of Business and Professional Regulation~~ Department of Health, Board of Pharmacy and registered as a consultant pharmacist by the Board of Pharmacy in accordance with Rules 64B16-26.300 and 64B16-28.501, F.A.C., and who provides consultation on all aspects of the provision of pharmacy services in the facility.

(3) The consultant pharmacist ~~must shall~~ establish a system to accurately record the receipt and disposition of all controlled drugs in sufficient detail to enable an accurate reconciliation.

(4) The consultant pharmacist ~~must shall~~ determine that drug records are in order and that an account of all controlled drugs is maintained and periodically reconciled.

(5) Drugs and biologicals used in the facility ~~must shall~~ be labeled in accordance with currently accepted professional principles, Chapter 499, F.S., and Rules 64B16-28.108 and 64B16-28.502, F.A.C.

(6) Prescription ~~Drugs~~ and non-prescription medications requiring refrigeration ~~must shall~~ be stored in a refrigerator. The refrigerator must be locked or located within a locked medication room and accessible only to licensed staff in accordance with state and federal laws. ~~When stored in a general-use refrigerator, they shall be stored in a separate, covered, waterproof, and labeled receptacle.~~

(7) All controlled substances ~~must shall~~ be disposed of in accordance with state and federal laws. All non-controlled substances may be destroyed in accordance with the facility's policies and procedures. Records of the disposition of all substances ~~must shall~~ be maintained in sufficient detail to enable an accurate reconciliation and a copy of the disposition must be filed in the resident's record or maintained electronically in a readily accessible

format.

(8) Non-controlled substances in unit dose containers may be returned to the dispensing pharmacy for credit.

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

(10) The licensee must facility shall maintain an Emergency Medication Kit, also known as the Emergency Drug Kit (EDK), the contents of which shall be determined in consultation with the medical director, director of nursing and pharmacist, and it shall be in accordance with facility policies and procedures. The kit must shall be readily available and must shall be kept sealed. All items in the kit must shall be properly labeled. The licensee must facility shall maintain an accurate log of receipt and disposition of each item in the EDK Emergency Medication Kit. An inventory of the contents of the EDK must Emergency Medication Kit shall be attached to the outside of the kit, which must include the earliest expiration date of the EDK drugs. If the seal is broken, the kit must be restocked and resealed by the next business day after use.

Rulemaking Specific Authority 400.23 FS. Law Implemented 400.022, 400.102, 400.141, 400.23 FS. History–New 4-1-82, Amended 4-1-84, 7-10-91, Formerly 10D-29.112, Amended 4-18-94,\_\_\_\_\_.

#### 59A-4.118 Medical Records.

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

(2) Each medical record must shall contain sufficient information to clearly identify the resident, his or her diagnosis and treatment, and results. Medical records must shall be complete, accurate, accessible and systematically organized.

(3) Medical records must shall be retained for a period of five years from the date of discharge. In the case of a minor, the record must shall be retained for three 3 years after a resident reaches legal age under state law.

(4) In the event of a change of ownership, the transferee must maintain all records concerning the care and treatment of the resident, including those originated by the transferor, as required in this subsection.

Rulemaking Specific Authority 400.23 FS. Law Implemented 400.022, 400.102, 400.141, 400.145, 400.23 FS. History–New 4-1-82, Amended 4-1-84, 3-2-88, Formerly 10D-29.118, Amended 4-18-94,\_\_\_\_\_.

#### 59A-4.122 Physical Environment and Physical Plant Maintenance.

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

(2) The licensee must facility shall provide:

(a) Housekeeping and maintenance services necessary to maintain a sanitary, orderly, and comfortable interior;

(b) Clean bed and bath linens that are in good condition;

~~(c) Private closet space for each resident;~~

~~(d) Furniture, such as a bedside cabinet, drawer space;~~

~~(e) Adequate and comfortable lighting levels in all areas;~~

~~(c)(f) Comfortable and safe room temperature levels in conformance with section 483.15(h)(6) 42 Code of Federal Regulations Chapter IV (10-1-00 Education) and;~~

~~(d)(g) The maintenance of comfortable sound levels. Individual radios, TVs and other such transmitters belonging to the resident will be tuned to stations of the resident's choice.~~

(3) Each nursing home licensee must establish written policies designed to maintain the physical plant and overall nursing home environment to assure the safety and well-being of residents.

(4) The building and mechanical maintenance programs must be supervised by a person who has knowledge in the areas of building and mechanical maintenance.

(5) All mechanical and electrical equipment must be maintained in working order, and must be accessible for cleaning and inspection.

(6) All new Heating Ventilation Air Conditioning (HVAC) systems must be tested, balanced and operated to ensure they are operating within specified parameters to meet all Rule and Code requirements and manufacturers specifications prior to being placed into service and maintained in accordance with the Florida Building Code as

described by Rule 9B-3.047, Florida Building Code Adopted, Florida Administrative Code and available free at [www.floridabuilding.org](http://www.floridabuilding.org). Permanent records must be maintained. Rulemaking Specific Authority 400.23 FS. Law Implemented 400.102, 400.141, 400.23 FS. History—New 4-1-82, Amended 4-1-84, Formerly 10D-29.122, Amended 4-18-94,\_\_\_\_\_.

#### 59A-4.123 Risk Management and Quality Assurance.

(1) The licensee must ~~facility shall~~ maintain a risk management and quality assurance committee as required in Section 400.147, F.S.

(2) The licensee must submit a report to the Agency on each incident determined to be adverse as specified in Section 400.147(5), F.S. on ~~facility shall use~~ AHCA Form 3110-0009, Revised, ~~January, 2002, October, 2001, October 2008,~~ “Confidential Nursing Home Initial Adverse Incident Report – 1 Day,” ~~and AHCA Form 3110-0010, 3110-0010A, and 3110-0010B, Revised, January, 2002,~~ “Confidential Nursing Home Complete Adverse Incident Report – 15 Day,” which ~~is are~~ incorporated by reference ~~when reporting events as stated in Section 400.147, F.S.~~ This ~~These~~ forms may be obtained from the Agency for Health Care Administration, Long Term Care Unit, 2727 Mahan Drive, MS 33, Tallahassee, FL 32308 or on the web site at: <http://ahca.myflorida.com/>. Each licensee must comply with reporting timeframes and transmission requirements specified in Section 400.147, F.S. These forms may be submitted through the Agency’s web site in accordance with subsection 59A-4.103(3), F.A.C., at: <http://ahca.myflorida.com/reporting/index.shtml>.

(3) Each licensee that has submitted a “Confidential Nursing Home Initial Adverse Incident Report – 1 Day.” report must submit a full report of each event by completing “Confidential Nursing Home Complete Adverse Incident Report – 15 Day,” AHCA Form 3110-0010, October 2008, which is incorporated by reference. This form may be obtained from the Agency for Health Care Administration, Long Term Care Unit, 2727 Mahan Drive, MS 33, Tallahassee, FL 32308 or on the web site at: <http://ahca.myflorida.com/>. If a thorough investigation has revealed that the event does not meet the definition of adverse incident, a statement of corrective action on “Confidential Nursing Home Complete Adverse Incident Report – 15 Day,” AHCA Form 3110-0010, October 2008, is not required. Each licensee must comply with report timeframe and transmission requirements specified in Section 400.147, F.S. These forms may be submitted through the Agency’s web site in accordance with subsection 59A-4.103(3), F.A.C., at: <http://ahca.myflorida.com/reporting/index.shtml>. Each ~~facility shall use~~ AHCA Form 3110-0008, and AHCA Form 3110-0008A, Revised, January, 2002, “Nursing Home Monthly Liability Claim Information,” which are incorporated by reference when reporting liability claims filed against it as required by Section 400.147(9), F.S. These forms may be obtained from the Agency for Health Care Administration, Long Term Care Unit, 2727 Mahan Drive, MS 33, Tallahassee, FL 32308.

(4) Events reported to law enforcement are considered adverse incidents if the report leads to an investigation by law enforcement officials and the report involves a resident of the facility. Rulemaking Specific Authority 400.23 FS. Law Implemented 400.022, 400.102, 400.141, 400.147, 400.23 FS. History—New 4-1-82, Amended 9-5-82, 4-1-84, 8-1-85, 7-10-91, Formerly 10D-29.123, Amended 4-18-94, 5-5-02,\_\_\_\_\_.

#### 59A-4.1235 Liability Claims.

Each nursing home licensee must use AHCA Form 3110-0008, October 2008, “Nursing Home Monthly Liability Claim Information,” which is incorporated by reference, when reporting notices of intent to litigate and complaints filed with the Clerks of the Courts received by the licensee during the prior month as required by Section 400.147 (9), F.S. If a liability claim has not been filed against the licensee in a given month, no report is required. These forms must be submitted by the tenth calendar day following the month of receipt and may be obtained from the Agency for Health Care Administration, Long Term Care Unit, 2727 Mahan Drive, MS 33, Tallahassee, FL 32308 or on the web site at: <http://ahca.myflorida.com/>. These forms may be submitted through the Agency’s web site in accordance with subsection 59A-4.103(3), F.A.C. at: <http://ahca.myflorida.com/reporting/index.shtml>. Rulemaking Authority 400.23 FS. Law Implemented 400.022, 400.102, 400.141, 400.147, 400.23 FS. History—New \_\_\_\_\_.

#### 59A-4.126 Disaster Preparedness.

(1) Each nursing home licensee must ~~facility shall~~ have a written plan with procedures to be followed in the event of an internal or externally caused disaster. The initiation, development, and maintenance of this plan ~~is shall~~ be the responsibility of the facility administrator, and ~~must shall~~ be accomplished in consultation with the Department of Community Affairs’, ~~cCounty eEmergency mManagement aAgency~~.

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

(a) Criteria, as shown, in Section 400.23(2)(g), F.S.; and

(b) The Emergency Management Planning Criteria for Nursing Home Facilities, AHCA 3110-6006, March 1994, which is incorporated herein by reference and ~~obtainable available~~ from the Agency for Health Care Administration, 2727 Mahan Drive, MS #24, Tallahassee, Florida 32308 or on the web site at

<http://ahca.myflorida.com/MCHQ/Plans/index.shtml#forms>.

(3) The plan, including the “Emergency Management Planning Criteria for Nursing Homes,” must be submitted annually, at the time of a change of ownership of the facility and after significant modification of the plan, to the county emergency management agency for review and approval.

(4) If the licensee is advised by the county emergency management agency of necessary revisions to the plan, those revisions must be made and the plan resubmitted to the county emergency management agency within 30 days of notification.

(5) The county emergency management agency shall be the final administrative authority for emergency plans developed by the nursing home licensee.

(6) The nursing home licensee must test the implementation of the emergency management plan annually, either in response to a disaster, an emergency, or in a planned drill. The outcome must be evaluated and documented and appropriate modifications to the plan to address deficiencies must be made within 30 days.

(7) The emergency management plan must be located in a designated area of the facility for immediate access by nursing home staff.

(8) If residents must be evacuated from the premises due to emergency conditions or a disaster, the licensee must report the location and number of residents evacuated to the Agency’s Long Term Care Unit in Tallahassee by phone at (850)488-5861, by fax at (850)410-1512 or through the Emergency Status System (ESS) at: <http://ahcaxnet/esswebahca> within 24 hours after the evacuation is completed. If the Long Term Care Unit or ESS system is unavailable to receive such information, the licensee must contact the appropriate Agency field office or designated Agency mutual aid office. The administrator or designee is responsible for knowing the location of each resident until the resident has been discharged from the facility. The licensee must inform the appropriate Agency field office of a contact person(s) who will be available 24 hours a day, seven days a week, until the facility is reoccupied.

(9) A licensee may exceed its licensed capacity to act as a receiving facility in accordance with an emergency operations plan for residents of evacuating providers from a geographic area where an evacuation order has been issued by a local authority having jurisdiction. While in an overcapacity status, each licensee must furnish or arrange for appropriate care and services including Fire / Life Safety Safeguards for all residents.

(10) The Agency must approve requests for overcapacity which lasts in excess of 15 days. Approvals shall be based upon satisfactory justification, need and resident safety as provided by the receiving and sending facilities.

(11) If residents are evacuated from a nursing home during or after an emergency situation or disaster and there is no damage to the facility and all utilities and services are operating within normal parameters, the facility may be reoccupied and notice provided to the Agency within 24 hours of return to the facility. This notification may be sent to the Agency by telephone or fax. However, if there has been water intrusion, interior damage, structural damage or if the facility is unable to operate under normal electrical power a determination whether or not the facility can be reoccupied must be made by the Agency. A determination may also require the review and approval from the local authority having jurisdiction. In those cases, the facility may not be occupied until all approvals are obtained.

(12) A facility with significant structural or systems damage must relocate residents out of the damaged facility until approval is received from the Agency’s Office of Plans and Construction to reoccupy the facility. Such approval will be based upon safety determinations pursuant to the requirements of the Florida Building Code as described by Rule 9B-3.047, Florida Building Code Adopted, Florida Administrative Code and available free at [www.floridabuilding.org](http://www.floridabuilding.org) and this rule.

Rulemaking Specific Authority 400.23 FS. Law Implemented 400.102, 400.141, 400.23 FS. History—New 4-1-82, Amended 4-1-84, Formerly 10D-29.126, Amended 8-15-94, 6-1-06, \_\_\_\_\_.

59A-4.128 Evaluation of Nursing Homes and Licensure Status.

(1) The Agency shall, at least every 15 months, evaluate and assign a licensure status to every nursing home facility. The evaluation and licensure status shall be based on the facility’s compliance with the requirements contained in this rule, and Chapter 400, Part II, F.S.

(2) The evaluation shall be based on the most recent licensure survey report and investigations conducted by the Agency and those persons authorized to inspect nursing homes under chapter 400, Part II, F.S.

(3) The licensure status assigned to the nursing home facility will be either conditional or standard. The licensure status is based on the compliance with the standards contained in this rule and Chapter 400, Part II, F.S. ~~Non-compliance will be stated as deficiencies measured in terms of scope and severity.~~

Rulemaking Specific Authority 400.23 FS. Law Implemented 400.102, 400.19, 400.23 FS. History—New 4-1-82, Amended 4-1-84, 9-26-85, 7-21-87, Formerly 10D-29.128, Amended 8-15-94, 2-28-95, 10-13-96, 5-5-02, \_\_\_\_\_.

59A-4.1285 Respite Care.

(1) Each nursing home licensee that meets the standards provided in Section 400.141(6) F.S., may develop and implement a respite care program.

(2) All sections in this rule and Chapter 400, Part II, F.S., shall apply to a nursing home licensee offering a respite care program. For each person admitted under the respite care program, the nursing home licensee must:

(a) Consider respite residents as nursing home residents to determine the nursing home minimum staffing required by Section 400.23(3)(a), F.S.

(b) Have an abbreviated plan of care developed with those items specified in paragraph 59A-4.109(1)(a), F.A.C. At a minimum, the modified plan of care must include nutritional requirements, medication orders, physicians' orders, nursing assessments and dietary preferences. The nursing or physician assessments may take the place of all other assessments required for full time residents.

(c) Have a contract which, at a minimum, must include the services to be provided to the resident including: charges for services, activities, equipment, emergency medical services and the administration and provision of medications. If multiple respite admissions for a single person are anticipated, the original contract may be good for one year from the date of execution.

(3) Persons admitted under the respite care program are:

(a) Exempt from the requirements specified in subsection 59A-4.106(1), F.A.C., for a discharge plan, discharge summary, and discharge diagnosis; however, each nursing home licensee must ensure a resident is released to his or her caregiver or an individual designated in writing by the caregiver;

(b) Entitled to resident's rights specified under Section 400.022, F.S., with the following exceptions:

1. Funds or property of the respite resident shall not be considered trust funds subject to the requirements of Section 400.022(1)(h), F.S., until the resident has been in the facility for more than 14 consecutive days. Each nursing home licensee must develop policies and procedures for handling respite care residents' funds or property, which must include access to personal funds as needed and release of all property and funds upon discharge.

2. The rights of residents as specified in Sections 400.022(1)(i) and (l), F.S., for respite residents must be addressed in the resident contract.

3. The rights of residents as specified in Sections 400.022(1)(p), (q), (u) and (v), F.S., will not apply.

(c) Allowed to use their personal medications for the respite stay if permitted under facility policy. Prescription medications brought in with the respite resident must be in a properly labeled container. Over-the-counter medications must be in the original container. The nursing home licensee must obtain physician's orders for the medications. The caregiver may provide information regarding the medications as part of the nursing assessment, which must agree with the physician's orders. Medications should be released with the resident upon discharge and in accordance with current orders. The nursing home policy may include acceptance of:

1. An attestation by the caregiver that the medications have been under his or her control prior to bringing it to the nursing home;

2. Verification by the DON, the consultant pharmacist, or provider pharmacy that the medications as packaged are the same as labeled and ordered by the physician.

(4) A person receiving respite care shall be entitled to a total of 60 days in the nursing home within a contract year or a calendar year if the contract is for less than 12 months. However, each single stay shall be limited to not more than 14 days. If a stay exceeds 14 days, the nursing home licensee must comply with all assessment and care planning requirements applicable to nursing home residents.

(5) Persons receiving respite care shall reside in a licensed nursing home bed.

(6) A prospective respite resident must provide such relevant medical information from a physician, a physician assistant, or nurse practitioner and other information from the primary caregiver as may be required by the nursing home, prior to or at the time of admission to the nursing home to receive respite care. The medical information must include a physician's order for respite care and proof of a physical examination by a licensed physician, physician assistant or nurse practitioner. The physician's order and physical examination may be used to provide intermittent respite care for up to 12 months from the date the order is written.

(7) The nursing home licensee must assume the duties of the primary care giver. To ensure continuity of care and services, the respite resident shall be entitled to retain his or her personal physician and must have access to medically necessary services such as physical therapy, occupational therapy or speech therapy as needed. The nursing home licensee must arrange for transportation to these services if necessary.

Rulemaking Specific Authority 400.011 FS. Law Implemented 400.151 FS. History—New 7-21-87, Formerly 10D-29.1285, Amended \_\_\_\_\_.

59A-4.1288 Exception.

Nursing homes licenses that participate in Title XVIII or XIX must follow certification rules and regulations found in 42 C.F.R. 483, Requirements for States and Long Term Care Facilities, October 1, 2006, including any

amendments integrated since 2006, which are incorporated by reference September 26, 1991, and sState rRules and rRegulations, Chapter 400, Part II, F.S., and this rule. Non-certified ~~facility licensees~~ facilities must follow the contents of this rule and the standards contained in the Conditions of Participation found in 42 C.F.R. 483, Requirements for States and Long Term Care Facilities, September 26, 1991, which is incorporated by reference with respect to social services, dental services, infection control, dietary and ~~the~~ therapies. Rulemaking Specific Authority 400.23 FS. Law Implemented 400.102, 400.141, 400.23 FS. History—New 4-18-94, Amended \_\_\_\_\_.

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

(1) Nursing homes ~~licensees~~ who accept children with a level of care of Intermediate I or II, skilled or fragile, must meet the following standards as indicated. Intermediate I and II are defined in Chapter 59G-4, F.A.C. Children considered skilled have a chronic debilitating disease or condition of one or more physiological or organ systems that generally make the child dependent upon 24-hour per day medical, nursing, or health supervision or intervention. Fragile children are medically complex and the medical condition is such that they are technologically dependent upon ~~through~~ medical equipment apparatus or procedure(s) to sustain life and who can expire; without warning unless continually under observation.

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

(3) Admission criteria:

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

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

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

1. Physician's orders, diagnosis, medical history, physical examination and rehabilitative or restorative needs.
2. A preliminary nursing evaluation with physician orders for immediate care, completed on admission.
3. A comprehensive, accurate, reproducible, and standardized assessment of each child's functional capability which is completed within 14 days of the child's admission to the facility and every twelve months thereafter. The assessment ~~must shall~~ be:
  - a. Reviewed no less than once every 120 days;
  - b. Reviewed promptly after a significant change in the child's physical or mental condition;
  - c. Revised as appropriate to assure the continued usefulness of the assessment.
4. The plan of care ~~must shall~~ also include measurable objectives and timetables to meet the child's medical, nursing, mental and psychosocial needs identified in the comprehensive assessment. The care plan must describe the services that are to be furnished to attain or maintain the child's highest practicable physical, mental, social and educational well-being. The care plan must be completed within seven ~~7~~ days after completion of the child's assessments ~~required in subsection (3) above~~.

5. ~~To in order to~~ enhance the quality of life of each child ages 3 years through 15 years, the facility administration must notify by certified mail the school board in the county in which the facility is located that there is a school-age child residing in the facility. Children ages 16 through 20 years must be enrolled in an education program according to their ability to participate. Program participation for each child regardless of age is predicated on his or her ~~their~~ intellectual function, physical limitations, and medical stability. Collaborative planning with the public school system and community at-large is necessary to produce integrated and inclusive settings which meet each child's needs. The failure or inability on the part of city City, county County, state State, or federal Federal school systems to provide an educational program according to the child's ability to participate shall not obligate the licensee facility to supply or furnish an educational program or bring suit against any city City, county County, state State, or federal Federal organizations for their failure or inability to provide an educational program. Nothing contained herein is intended to prohibit, restrict or prevent the parents or legal guardian of the child from providing a private educational program that meets applicable sState laws.

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

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

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

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

- (a) Evaluate and document the status of the child's condition at least monthly;
- (b) Review and update the plan of care every 60 days;
- (c) Prepare orders as needed and accompany them by a signed progress note in the child's medical record; and
- (d) Co-sign verbal orders no more than 72 hours after the order is given. Physicians' orders may be transmitted by facsimile machine. It is not necessary for a physician to re-sign a facsimile order when he or she visits a facility. Orders transmitted via computer mail are not acceptable. Verbal orders not co-signed within ~~seventy-two (72)~~ hours shall not be held against the ~~licensee facility~~ if it has documented timely, good-faith efforts to obtain ~~such said~~ co-signed orders.

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

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

(6) ~~In addition to the requirements of section 420 of the Florida Building Code 2004 Edition including all supplements in effect as of December 2006, (The licensee must facility shall~~ provide the following:

~~(a) A minimum of 100 square feet in a single bedroom and 80 square feet per child in multiple bedrooms;~~

~~(a)(b)~~ Bathroom and bathing facilities appropriate to the child's needs to allow for:

- 1. Toileting functions with privacy ~~← a door to the bathroom must will be provided;~~ and
- 2. Stall showers and tubs.

~~(b)(c)~~ There ~~must shall~~ be ~~an~~ indoor activities area that:

- 1. Encourages exploration and maximizes the child's capabilities;
- 2. Accommodates mobile and non-mobile children; and
- 3. Supports a range of activities for children and adolescents of varying ages and abilities.

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

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

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

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

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

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

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

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

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

~~(e) The facility shall be equipped and staffed to:~~

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

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

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

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

1. Be reviewed at least annually by the quality assurance committee and revised as needed.
2. Include both pre-service and in-service programs. In-service for each department must include pediatric-specific requirements as relevant to its discipline.
3. Include Ensure that education that is conducted annually for all facility employees who work with children, at a minimum, in the following areas:
  - a. Childhood diseases to include prevention and control of infection;
  - b. Childhood accident prevention and safety awareness programs;
4. Require Ensure that all ~~non-licensed~~ employees of the nursing home to complete an initial educational course on HIV and AIDS, preferably pediatric HIV and AIDS, in accordance with Section 381.0035, F.S. If the employee does not have a certificate of completion at the time ~~he or she is~~ they are hired, the employee they must have completed the course two hours within six months of employment. ~~All employees shall have a minimum of one hour biennially.~~

(i)(j) All facility staff must shall receive in-service training in and demonstrate awareness of issues particular to pediatric residents annually.

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

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

~~1. There shall be one registered nurse on duty, on-site 24 hours per day on the unit where children reside. There shall be an average of 3.5 hours of nursing care per patient day.~~

~~2. In determining the minimum hours of nursing care required above, there shall be no more than 1.5 hours per patient day of certified nursing assistant (CNA) care and no less than 1.0 hours per patient day of licensed nursing care.~~

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

~~1. One include one registered nurse on duty, on-site 24 hours per day on the unit where children reside. There shall be an average of 5 hours of nursing care per patient day.~~

~~2. In determining the minimum hours per patient day required above, there shall be no more than 1.5 hours per patient day of CNA care, and no less than 1.7 hours per patient day of licensed nursing care.~~

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

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

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

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

(12) Safety equipment, such as childproof safety latches on closets; and cabinets, straps on all seating services, locks on specific storage cabinets, bumper pads on cribs, and car seats for transporting must be used whenever

appropriate to ensure the safety of the child.

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

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

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

(15) Prior to initiating or expanding services to pediatric residents, the licensee or applicant must receive written approval from the Agency. Nursing home licensees that wish to convert existing nursing home beds to pediatric beds must:

(a) Have a standard license pursuant to Section 400.062, F.S.;

(b) Submit approval from the Office of Plans and Construction based upon submission of plans and specifications of the building for approval as outlined in Rule 59A-4.133, F.A.C.

(c) Submit a revised licensure application no less than 30 days prior to the anticipated date that services will be provided. The application must include the number and configuration of beds to be used to serve pediatric residents and a listing of services that will be provided.

(16) Approval to provide pediatric services shall be based upon demonstration of compliance with this rule and Chapter 400, Part II, F.S.

(17) Any changes in pediatric services, including cessation of services, must be reported to the Agency in writing at least 30 days prior to the change.

Rulemaking Specific Authority 400.23(5)(2), (4) FS. Law Implemented 400.23(5)(4) FS. History—New 11-5-96, Amended 9-7-97, \_\_\_\_\_.

(Substantial rewording of Section 59A-4.130 follows. See Florida Administrative Code for present text.)

59A-4.130 ~~Fire Prevention~~, Fire Protection, ~~and~~ Life Safety, Systems Failure and External Emergency Communications.

(1) Each nursing home licensee must provide fire protection through the elimination of fire hazards. All portions of the existing facility must comply with the requirements of the National Fire Protection Association (NFPA) Life Safety Code 101 for Existing Health Care Occupancy, as adopted by the State Fire Marshal described in Chapter 69A-53, Uniform Fire Safety Standards for Hospitals and Nursing Homes, Florida Administrative Code and incorporated by reference and obtainable from the National Fire Protection Association, 1 Batterymarch Park, P. O. Box 9101, Quincy, Massachusetts, 02269-9101.

(2) All fires or explosions must be reported immediately to the local fire inspection authority and the Agency's Office of Plans and Construction at (850)487-0713 or by fax at (850)922-6483. Upon notification and in accordance with NFPA 1, Fire Prevention Code, as adopted by the State Fire Marshal and described in Chapter 69A-50, Florida Fire Prevention Code, Florida Administrative Code, the Agency may investigate the cause, origin, and circumstances of the fire or explosion. To facilitate this investigation, the nursing home licensee must complete the form "Fire Incident Report," AHCA Form 3500-0031, September 2006, incorporated herein by reference and available by mail from the Agency's Office of Plans and Construction or accessible from the Agency's web site at: [ahca.myflorida.com/MCHQ/Plans/index.shtml#forms](http://ahca.myflorida.com/MCHQ/Plans/index.shtml#forms). This written report must be sent to the Agency's Office of Plans and Construction at 2727 Mahan Drive, MS #24, Tallahassee, Florida 32308, within seven days of the occurrence.

(3) In accordance with NFPA 101, Life Safety Code, if a system failure of the fire alarm system, smoke detection system, or sprinkler system occurs, the following actions must be taken by the licensee:

(a) Notify the local fire department and document instructions.

(b) Notify the Agency's Office of Plans and Construction or the appropriate Agency field office.

(c) Assess the extent of the condition and effect corrective action, with a documented correction period. If the corrective action will take more than four hours, the following must be completed:

1. Implement a contingency plan to the facility fire plan containing a description of the problem, a specific description of the system failure, and the projected correction period. All staff on the shifts involved must have documented in-service training for the emergency contingency.

2. Begin a documented fire watch until the system is restored. Staff performing the fire watch must be trained in appropriate observations and actions, as well as be able to expeditiously contact the fire department. To maintain a fire watch, the licensee must utilize only certified public fire safety personnel, a security guard service, or facility

staff. If facility staff are used for this function, they must meet the following criteria:

- a. Be off duty from their regular facility position or assigned only to fire watch duty. The licensee must maintain compliance with direct care staffing requirements at all times;
  - b. Be trained and competent as determined by the licensee in the duties and responsibilities of a fire watch;
  - c. Have immediate access to two-way electronic communication.
3. If the projected correction period changes or upon restoration of the system to normal operation, the licensee must notify the appropriate Agency's field office and local fire authorities.

(4) External Emergency Communication. Each newly constructed facility that has not received a Preliminary Stage II Plan Approval from the Office of Plans and Construction on the effective date of this rule, shall provide for external electronic communication not dependent on terrestrial telephone lines, cellular, radio, or microwave towers, such as an on-site radio transmitter, satellite communication systems or a written agreement with an amateur radio operator volunteer group. This agreement must provide for a volunteer operator and communication equipment to be relocated into the facility in the event of a disaster until communications are restored. Other methods that can be shown to maintain uninterrupted electronic communications not dependent on land-based transmission must be approved by the Agency's Office of Plans and Construction.

Rulemaking Specific Authority ~~381.031(1)(g)7.~~, 400.23, 400.191(2) FS. Law Implemented ~~381.031~~, 400.102, 400.141, 400.23, 633.05(8), 633.051 FS. History--New 4-1-82, Amended 4-1-84, 8-1-85, Formerly 10D-29.119, 59A-4.119, Amended \_\_\_\_\_.

(Substantial rewording of Section 59A-4.133 follows. See Florida Administrative Code for present text.)

59A-4.133 Physical Plant Codes and Standards for Nursing Homes ~~Plans Submission and Review and Construction Standards.~~

(1) All construction of new nursing homes and all additions, modifications, alterations, renovations, and refurbishing to the site, facility, equipment or systems of existing facilities must be in compliance with the Florida Building Code as described by Rule 9B-3.047, Florida Building Code Adopted, Florida Administrative Code and available free at [www.floridabuilding.org](http://www.floridabuilding.org).

(2) No building shall be converted to a licensed nursing home unless it complies with the standards and codes set forth herein and with licensure requirements set forth in this Chapter.

(3) Guide on Alternative Approaches to Life Safety, NFPA-101 A as adopted by the State Fire Marshal described in Chapter 69A-53, Uniform Fire Safety Standards for Hospitals and Nursing Homes, Florida Administrative Code, incorporated by reference and obtainable from the National Fire Protection Association, 1 Batterymarch Park, P. O. Box 9101, Quincy, Massachusetts 02269-9101, shall not be used to meet the required codes and standards for new construction or for the conversion of an existing building to a licensed nursing home.

(4) Where additions, modifications, alterations, refurbishing, renovations or reconstruction are undertaken within an existing facility, all such additions, modifications alterations, refurbishing, renovations or reconstruction must comply with applicable sections of the codes for new facilities. Where existing major structural elements make total compliance impractical or impossible, the licensee or potential licensee must submit to the Office of Plans and Construction a request to utilize alternate materials and methods in accordance with the Florida Building Code.

(5) In additions, modifications, alterations, refurbishing, renovations or reconstruction projects and those projects that are making additions to existing facilities, only that portion of the total facility affected by the project must comply with applicable sections of the referenced codes for new construction.

(6) A licensed nursing home or any portion of a licensed nursing home that was reviewed and approved under a previous edition of the Life Safety Code must be in compliance with the requirements of Chapter 19, Existing Health Care Occupancy, of the National Fire Protection Association (NFPA) Life Safety Code 101, as adopted by the State Fire Marshal described in Chapter 69A-53, Uniform Fire Safety Standards for Hospitals and Nursing Homes, Florida Administrative Code, incorporated by reference and obtainable from the National Fire Protection Association, 1 Batterymarch Park, P. O. Box 9101, Quincy, Massachusetts 02269-9101, with the exception of any part included in the additions, modifications, alterations, refurbishing, renovations or reconstruction that must be in compliance with currently adopted codes and standards. A licensed nursing home and any portion of a licensed nursing home that was reviewed and approved under a previous edition of Chapter 59A-4, Florida Administrative Code and the state or local building code must remain in compliance with the rule or building code in effect at the date of licensure with the exception of any part included in the additions, modifications, alterations, refurbishing, renovations or reconstructions that must be in compliance with currently adopted codes and standards.

(7) All existing facilities must be maintained in a safe condition free of hazards and all existing architectural, mechanical, electrical and structural systems and appurtenances must be maintained in good working order. No architectural, mechanical, electrical, or structural system or appurtenance may be deleted or discontinued without first obtaining approval from the Agency.

(8) When a building or portion of a building is converted to a new licensed nursing home, it must comply with

the requirements of Chapter 4 and Institutional Occupancy- Group I, Unrestrained, of the Florida Building Code as described by Chapter 9B-3.047, Florida Building Code Adopted, Florida Administrative Code and available free at [www.floridabuilding.org](http://www.floridabuilding.org), and the National Fire Protection Association (NFPA) Life Safety Code 101, Chapter 18, New Health Care Occupancy, as adopted by the State Fire Marshal, incorporated by reference and obtainable from the National Fire Protection Association, 1 Batterymarch Park, P.O. Box 9101, Quincy, Massachusetts 02269-9101. When a building is converted from another type of occupancy to a nursing home, it must comply with the requirements of the Florida Building Code. A change of ownership shall not constitute a change of occupancy.

(9) Other facilities or providers not owned or operated by the licensee of a nursing home may be fully integrated with the nursing home's physical plant only after it has been successfully demonstrated to the Agency that all areas of the facility's physical plant are designed and maintained in a manner that will ensure continued licensure compliance of the nursing home.

(10) The Agency shall conduct annual life safety inspections of nursing homes to ensure compliance with all licensing and fire safety requirements. Inspections may also be conducted by the Agency as it deems necessary to carry out the functions of the Agency for the following reasons:

- (a) To ensure compliance with the licensing and life safety requirements of this Chapter;
- (b) To respond to licensing, life safety, and other physical plant complaints; or
- (c) To protect the public health and safety.

(11) Nothing in these standards shall be construed as restrictive to a facility that chooses to do work or alterations as part of a long-range, phased safety improvement plan. All hazards to life and safety and all areas of noncompliance with applicable codes and regulations must be corrected in accordance with a plan of correction approved in advance by the Agency's Office of Plans and Construction.

(12) Projects that have not received at least a Stage II Preliminary Plan approval from the Office of Plans and Construction on the effective date of this rule must conform to the requirements as set forth in these rules. Rulemaking Specific Authority ~~381.031(1)(g)7.~~ 400.23 FS. Law Implemented ~~381.031.~~ 400.011(2), 400.021(1)-(17), 400.022(1)-(4), 400.102, 400.141, 400.23 FS. History--New 4-1-82, Amended 4-1-84, 4-29-92, Formerly 10D-29.120, 59A-4.120, Amended 2-6-97, 10-21-99, \_\_\_\_\_.

#### 59A-4.134 Plans Submission and Fee Requirements.

(1) No construction work, including demolition, shall be started until prior written approval has been given by the Office of Plans and Construction. This includes all construction of new facilities and all additions, modifications, alterations, renovations, and refurbishing to the site, facility, equipment or systems of all existing facilities.

(2) Approval to start construction only for demolition, site work, foundation, and building structural frame may be obtained prior to construction document approval when the following is submitted for review and approval:

- (a) Preliminary Stage II approval letter from the Office of Plans and Construction.
- (b) Construction documents, specifications and construction details for all work to be undertaken.
- (c) A letter from the nursing home licensee holding the Agency harmless for any changes that may occur to the project as a result of the final construction document review.
- (d) A life safety plan indicating temporary egress and detailed phasing plans indicating how the areas to be demolished or constructed are to be separated from all occupied areas must be submitted for review and approval when demolition or construction in and around occupied buildings is to be undertaken.

(3) Projects that have been submitted to the Agency for review will be considered abandoned and will be terminated after any of the following has occurred:

- (a) Construction has not begun within one year after written approval of the construction documents from the Office of Plans and Construction;
- (b) No further plans have been submitted for Agency review within one year after a project has been initiated with the Office of Plans and Construction;
- (c) Construction has been halted for more than one year. After this termination, resubmission as a new project will be required.

(4) When construction is planned, either for new buildings, additions, alterations or renovations to existing buildings, the plans and specifications must be prepared and submitted to the Office of Plans and Construction for approval by a Florida registered architect and a Florida registered professional engineer. An architecture or engineering firm not practicing as a sole proprietor must also be registered as an architecture or engineering firm with the Florida Department of Business and Professional Regulation.

(5) The initial submission of plans to the Office of Plans and Construction for any new project must include a completed Plan Review Application Form, ACHA Form 3500-0011, November 1996, revised March 2002, incorporated by reference and obtainable from the Agency for Health Care Administration, 2727 Mahan Drive, Tallahassee, Florida 32308 and a valid Certificate of Need, if required by the Agency. This information must

accompany the initial submission. Approval will not be granted for any project without a Certificate of Need if required by the Agency.

(6) Plans and specifications submitted for review shall be subject to a plan review fee. This fee is prescribed by Section 400.232, F.S. All fees must be paid by check made payable to the Treasurer, State of Florida, with the check noted with the Office of Plans and Construction facility log number. Fees will be accepted only from the licensee or prospective licensee.

(7) Plans and specifications shall normally be submitted in three stages. Exceptions to the submission of all three stages shall be subject to prior approval by the Office of Plans and Construction.

(a) Stage I, schematic plans.

(b) Stage II, preliminary plans or design development drawings.

(c) Stage III, construction documents, including specifications, addenda and change orders.

(8) For each stage of submission, a program or scope of work must be submitted. It must consist of a detailed word description of all contemplated work and any required phasing to be provided in the proposed construction.

(9) For projects involving only equipment changes or system renovations, only Stage III, construction documents need be submitted. These documents must include the following:

(a) Life safety plans showing the fire/smoke compartments in the area of renovation.

(b) Detailed phasing plans indicating how the new work will be separated from all occupied areas.

(c) Engineering plans and specifications for all of the required work.

(10) Stage I, Schematic Plans.

(a) At a minimum, the following must be incorporated into the schematic plans:

1. Single-line drawings of each floor that must show the relationship of the various activities or services to each other and each room arrangement. The function of each room or space must be noted in or near the room or space. The proposed roads and walkways, service and entrance courts, parking, and orientation must be shown on either a small plot plan or on the first floor plan. Provide a simple cross-section diagram showing the anticipated construction. Provide a schematic life safety plan showing smoke and fire compartments, exits, exit passageways and gross areas of smoke and fire compartments. Provide information as to which areas have sprinklers, both new and existing.

2. If the proposed construction is an addition or is otherwise related to existing buildings on the site, the schematic plans must show the facility and general arrangement of those other buildings.

3. A schedule showing the total number of beds, types of bedrooms and types of ancillary spaces.

(11) Stage II, Preliminary Plans.

(a) At a minimum, to gain a Stage II approval, the following must be incorporated into the preliminary plans”.

1. A vicinity map showing the major local highway intersections for new nursing home construction.

2. Site development plans that:

a. Show existing grades and proposed improvements as required by the schematic submission.

b. Provide building locating dimensions.

c. Provide site elevations for both the 100 year flood elevations and hurricane category 3 surge inundation elevations if the project involves the construction of a new facility or is a new addition of a wing or floor to an existing facility.

d. Provide the location of the fire protection services water source to the building.

3. Architectural plans that include:

a. Floor plans, 1/8-inch scale minimum, showing door swings, windows, casework and millwork, fixed equipment and plumbing fixtures. Indicate the function of each space.

b. A large-scale plan of typical new bedrooms with a tabulation of gross and net square footage of each bedroom. Tabulate the size of the bedroom window glass.

c. Typical large-scale interior and exterior wall sections to include typical rated fire and fire/smoke partitions and a typical corridor partition.

d. All exterior building elevations.

e. Equipment that is not included in the construction contract but that requires mechanical or electrical service connections or construction modifications must be identified to assure its coordination with the architectural, mechanical and electrical phases of construction.

f. If the project is located in an occupied facility, preliminary phasing plans indicating how the project is to be separated from all occupied areas

4. Life safety plans that include:

a. Single-sheet floor plans showing fire and smoke compartmentation, all means of egress and all exit signs. Additionally, dimension the longest path of travel in each smoke compartment to the door(s) to the adjoining compartment, calculate the total area of the smoke compartment in square feet, and tabulate exit inches.

- b. All sprinklered areas, fire extinguishers, fire alarm devices and pull station locations.
- c. If the project is an addition or conversion of an existing building, fully developed life safety plans.
- d. If the project is a renovation in an existing building, life safety plans of the floor being renovated and the required exit egress floor(s).
- e. When demolition or construction in and around occupied buildings is to be undertaken, a life safety plan indicating temporary egress and detailed phasing plans indicating how the areas to be demolished or constructed are to be separated from all occupied areas.

5. Mechanical engineering plans that include:

- a. Single-sheet floor plans with a one-line diagram of the ventilating system with relative pressures of each space. Provide a written description and drawings of the anticipated smoke control system, passive or active, and a sequence of operation correlated with the life safety plans.
- b. The general location of all fire and smoke dampers, all duct smoke detectors and firestats.
- c. If the building is equipped with fire sprinklers, the location of the sprinkler system risers and the point of connection for the fire sprinkler system. State the method of design for the existing and new fire sprinkler systems.
- d. The locations of all plumbing fixtures and other items of equipment requiring plumbing services and/or gas services.
- e. The locations of any fume, radiological or chemical hoods.
- f. The locations of all medical gas outlets, piping distribution risers, terminals, alarm panels, low pressure emergency oxygen connection, isolation/zone valves, and gas source locations.
- g. The locations and relative size of major items of mechanical equipment such as chillers, air handling units, fire pumps, medical gas storage, boilers, vacuum pumps, air compressors and fuel storage vessels.
- h. The locations of hazardous areas and the volume of products to be contained therein.
- i. The location of fire pump, stand pipes, and sprinkler risers.

6. Electrical Engineering Drawings that include:

- a. A one-line diagram of normal and essential electrical power systems showing service transformers and entrances, switchboards, transfer switches, distribution feeders and over-current devices, panel boards and step-down transformers. The diagram must include a preliminary listing and description of new and existing, normal and emergency loads, preliminary estimates of available short-circuit current at all new equipment and existing equipment serving any new equipment, short-circuit and withstand ratings of existing equipment serving new loads and any new or revised grounding requirements.
- b. Fire alarm zones and correlate with the life safety plan.

7. Outline specifications are to include a general description of the construction, including construction classification and ratings of components, interior finishes, general types and locations of acoustical material, floor coverings, electrical equipment, ventilating equipment and plumbing fixtures, fire protection equipment, and medical gas equipment.

8. Whenever an existing building is to be converted to a health care facility, the general layout of spaces of the existing structure must be submitted with the preliminary plans for the proposed facility.

9. Whenever additions, modifications, alterations, renovations, and refurbishing to an existing building is proposed, the general layout of spaces of the existing facility must be submitted with the preliminary plans.

(12) Stage III, Construction Documents.

(a) The Stage III construction documents must be an extension of the Stage II preliminary plan submission and must provide a complete description of the contemplated construction. Construction documents must be signed, sealed, dated and submitted for written approval to the Office of Plans and Construction by a Florida registered architect and Florida registered professional engineer. These documents must consist of work related to civil, structural, mechanical, and electrical engineering, fire protection, lightning protection, landscape architecture and all architectural work. At a minimum, and in addition to the requirements for Stage II submission, the following must be incorporated into the construction documents:

- 1. Site and civil engineering plans that indicate building and site elevations, site utilities, paving plans, grading and drainage plans and details, locations of the two fire hydrants utilized to perform the water supply flow test, and landscaping plans.
- 2. Life safety plans for the entire project.
- 3. Architectural plans.
  - a. Typical large-scale details of all typical interior and exterior walls and smoke walls, horizontal exits and exit passageways.
  - b. Comprehensive ceiling plans that show all utilities, lighting fixtures, smoke detectors, ventilation devices, sprinkler head locations and fire-rated ceiling suspension member locations where applicable.
  - c. Floor/ceiling and roof/ceiling assembly descriptions for all conditions.

d. Details and other instructions to the contractor on the construction documents describing the techniques to be used to seal floor construction penetrations to the extent necessary to prevent smoke migration from floor to floor during a fire.

4. Structural engineering plans, schedules and details.

5. Mechanical engineering plans to include fire and smoke control plans. Show all items of owner furnished equipment requiring mechanical services. Provide a clear and concise narrative control sequence of operations for each item of mechanical equipment including but not limited to air conditioning, heating, ventilation, medical gas, plumbing, and fire protection and any interconnection of the equipment of the systems. Mechanical engineering drawings must depict completely the systems to be utilized, whether new or existing, from the point of system origination to its termination. Provide a tabular schedule giving the required air flow (as computed from the information contained on the ventilation rate table) in cubic feet per minute (cfm) for supply, return, exhaust, outdoor, and ventilation air for each space listed or referenced by note on the ventilation rate table as shown on the architectural documents. The schedule must also contain the Heating Ventilation and Air Conditioning (HVAC) system design air flow rates and the resulting space relative pressures. The schedule or portion of the schedule, as applicable, must be placed in the specifications or in the drawing set containing the spaces depicted.

6. Fire protection plans, where applicable, that must include the existing system as necessary to define the new work.

7. Electrical engineering plans that must describe complete power, lighting, alarm, communications and lightning protection systems and power system study.

8. A power study that must include a fault study complete with calculations to demonstrate that over-current devices, transfer switches, switchboards, panel boards, motor controls, transformers and feeders are adequately sized to safely withstand available phase-to-phase and phase-to-ground faults. The study must also include an analysis of generator performance under fault conditions and a coordination study resulting in the tabulation of settings for all over-current device adjustable trips, time delays, relays and ground fault coordination. This must be provided for all new equipment and existing equipment serving any new equipment. Power studies for renovations of existing distribution systems must include only new equipment and existing equipment upstream to the normal and emergency sources of the new equipment. Renovations involving only branch circuit panel boards without modifications to the feeder will not require a full power study; instead, the power study will be limited to the calculation of new and existing loads of the branch circuit panel.

9. A complete set of specifications for all work to be undertaken.

a. All project required contractor supplied testing and/or certification reports must be submitted in type written format, on standard forms, reviewed and accepted by the Engineer of Record prior to presenting to the Agency for review.

b. The specifications must require a performance verification test and balance air quantity values report for a minimum of two operating conditions for each air handling unit system. One operating condition must be with the specified air filters installed in the minimum pressure drop or clean state. The second operating condition must be at the maximum pressure drop and/or dirty state. The air quantities reported are acceptable if they are within ten percent of the design value and the space relative pressures are maintained. This requirement applies to any air-handling unit affected by the construction to be performed.

10. Well coordinated construction documents. In the case of additions to existing institutions, the mechanical and electrical, especially existing essential electrical systems and all other pertinent conditions must be a part of this submission.

11. Signed, sealed and dated subsequent addenda, change orders, field orders and other documents altering the above must be submitted for advance written approval from the Office of Plans and Construction.

(13) Initial submissions will be acted upon by the Agency within 60 days of the receipt of the initial payment of the plan review fee. The Agency will either approve or disapprove the submission and will provide a listing of deficiencies in writing. Each subsequent resubmission of documents for review on the project will initiate another 60-day response period. If the Agency does not act within 60 days of receipt of a submission, the submission will be considered approved. However, all deficiencies noted by the Agency must be satisfactorily corrected before final approval can be obtained for the project from the Agency.

(14) Additions or revisions that substantially change the original scope of the project or are submitted by different design professionals will be required to be submitted as a new project.

(15) The Agency is required to archive all public record documents for a period of five years. These documents are electronically stored. Therefore, within 60 days after final approval of the project has been obtained from the Agency, the licensee and the Office of Plans and Construction must be provided with a complete set of record drawings electronically submitted as Portable Document Format (.pdf) files showing all of the construction, fixed equipment and the mechanical and electrical systems as installed. These electronically submitted .pdf files must

include the life safety plans of the facility.

Rulemaking Authority 400.23 FS. Law Implemented 400.011(2), 400.021(1)-(17), 400.022(1)-(4), 400.102, 400.141, 400.23 FS. History—New \_\_\_\_\_.

59A-4.150 Geriatric Outpatient Nurse Clinic.

(1) Definitions:

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

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

~~(c) Agency for Health Care Administration— AHCA.~~

~~(b)(d) Geriatric Outpatient Nurse Clinic – a treatment room or rooms site in a nursing home used to provide treatment room for the provision of health care to geriatric patients on an outpatient basis, which is staffed by a registered nurse, advanced registered nurse practitioner (ARNP), or by a physician’s assistant or a licensed practical nurse under the direct supervision of a registered nurse, advanced registered nurse practitioner (ARNP), or a physician’s assistant.~~

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

~~(f) Nursing Facility— a facility licensed under Part I of Chapter 400, F.S.~~

~~(g) Physician’s Assistant— a person who holds a current certificate issued by the Florida State Board of Medical Examiners of Florida State Board of Osteopathic Medical Examiners, to serve as a physician’s assistant to function in the dependent relationship with the supervising physician. (Sections 458.135(2)(d); 459.151(2)(d), F.S.).~~

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

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

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

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

~~(e)(l) Responsible Physician – the licensed physician delegated by the supervising physician as responsible for the services rendered by the physician’s assistant or ARNP in the absence of the supervising physician.~~

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

~~(g)(n) Substantive Change – a change in when the patient’s condition indicating need for changes to such an extent that a change in treatment and/or medication orders is indicated or non-applicability of when pre-established protocols are not applicable.~~

~~(h)(o) Supervising Physician – the licensed physician assuming responsibility and legal liability for the services rendered by the physician’s assistant or ARNP. (Sections 458.135(2)(e); 459.151(2), (3), F.S.)~~

~~(i)(p) Treatment Room – the room or suite of rooms set aside for the examination and care of patients.~~

(2) Applications.

(a) ~~The nursing home licensee must submit a ★ letter to shall be sent through the local County Public Health Department and omit to the Agency’s Long Term Care Unit AHCA by the operator of a currently licensed nursing home stating intent to establish a geriatric outpatient nurse clinic in compliance with Chapter 400, F.S., Chapter 77-401, Laws of Florida, and applicable the rules pertaining to these chapters. A copy of the said letter must shall be sent to the Health Program Office of the Department of Health and Rehabilitative Services by the local County Public Health Department omit. This letter must shall be sent at least sixty (60) days prior to the anticipated date of establishment of the clinic. The director, of the County Public Health Department omit shall provide specific recommendations for operation of the clinic when transmitting the letter.~~

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

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

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

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

~~(f) A Certificate of Need issued by the Agency required by Sections 381.493 through 381.497, F.S., is a prerequisite to establish a geriatric outpatient nurse clinic.~~

(3) Treatment Rooms and Access Areas.

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

(b) Every nursing home licensee facility conducting a geriatric outpatient nurse clinic ~~must shall~~:

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

(4) Administration.

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

1. Clinic financial records ~~must shall~~ be a recognized system of accounting used to accurately reflect details of the business and include adequate documentation of all transactions ~~identifying all income by source and describe all expenditures by category in such a manner as to be suitable by community recognized procedure.~~

2. An accident and incident record, containing a clear description of each accident and any other incident or hazardous or deviant behavior of a patient or staff member with names of individuals involved, description of medical and other services provided, by whom such services were provided and the steps taken to prevent recurrence.

3. Personnel records for each clinic employee and/or contractual provider. These records ~~must will~~ be kept updated and include current Florida license and certificate numbers. Original application for the position, references furnished and an annual performance evaluation ~~must shall~~ be included.

4. A record of personnel policies, including statement of policies affecting personnel and a job description for each person providing clinic services.

5. Clinic Schedule.

6. Compliance with requirements of Title VI of the Civil Rights Act of 1964.

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

1. ~~Assurance~~ that all health services are provided according to legal, ethical and professional practice standards to protect the health, safety and well-being of the patients.

2. ~~Maintenence~~ and ~~ensure~~ confidentiality of clinical records for each patient as required in this rule, Chapter 400, Part II and applicable state and federal regulations relating to patient records.

3. ~~Assure Responsibility for~~ development and periodic review of written policies and protocols governing patient care, including emergency procedures.

4. ~~Assure Responsibility for~~ development and periodic review of the patient referral system.

5. ~~Assure Responsibility for~~ the administration and handling of drugs and biologicals as required in this rule, Chapter 400, Part II, F.S. and applicable state and federal regulations relating to patient records these Rules.

6. ~~Maintenence of~~ an individual and cumulative clinic census record.

7. ~~Coordination of~~ patient care with the attending physician and other community health and social agencies and/or facilities.

8. ~~Maintenence of~~ a safe, sanitary clinic environment.

(5) Fiscal Management.

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

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

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

1. Pay any commission, bonus, rebate or gratuity to any organization, agency, physician, employee or other person for referral of any patients to the clinic.

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

(6) Personnel Policies.

(a) Staff in the geriatric outpatient nurse clinic ~~will must~~ be governed by ~~the their personnel standards Personnel~~

~~Standards in rRules and rRegulations governing nursing homes Nursing Homes and Related Health Care Facilities. Rule 59A-4.157, F.A.C.~~

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

(c) Services of this clinic ~~must not will in no way~~ reduce the minimum staffing standards for in-patient care.

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

(7) Personnel Functions and Responsibilities.

(a) ~~The registered nurse, ARNP or physician assistant staffing the geriatric outpatient clinic must: Registered Nurse (Sections 464.021(2)(a)1., 2., F.S.)~~

1. ~~Be responsible~~ The nurse shall have the responsibility for eliciting and recording a health history, observation and assessment nursing diagnosis, counseling and health teaching of patients and the maintenance of health and prevention of illness.

2. ~~Provide~~ The nurse shall provide treatment for the medical aspects of care according to pre-established protocols or physician's orders.

~~3.2. Note~~ The nurse shall note findings and activities on the clinical record.

~~4.3. Provide~~ The nurse shall provide progress reports to the attending physicians about patients under the physician's care when there is a substantive change in the patient's condition, there are deviations from the plan of care, or at least every sixty (60) days.

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

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

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

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

~~1. The physician's assistant shall perform health care tasks delegated by the supervising or responsible physician:~~

~~2. The physician's assistant shall note findings and activities on the clinical record:~~

(8) Patient Eligibility Criteria.

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

~~1.(b) Patients must shall~~ be accepted for clinic services on self-referral for nursing care, or upon a plan of treatment established by the patient's attending physician.

~~2.(c) Patients The patients~~ with an attending physician will be held responsible for providing the clinic with a written medical plan of treatment reviewed and signed by their physician ~~at least sixty (60) days.~~

~~3.(d) When services are to be terminated, the patient must is to~~ be notified of the date of termination and the reason for termination that ~~must shall~~ be documented in the patient's clinical record. ~~A plan shall be developed for a~~ Referrals must be made for any continuing care required indicated.

(9) Patient's Rights.

(a) The nursing home licensee must facility shall adopt, implement and make public a statement of the rights and responsibilities of the clinic patients and ~~must shall~~ treat such patients in accordance with the provisions of the said statement. This statement ~~must shall~~ be conspicuously posted and available to clinic patients in pamphlet form. The statement ~~must ensure shall insure~~ each patient the following:

~~1.(b)~~ The right to have private communication with any person of his or her choice.

~~2.(c)~~ The right to present grievances on behalf of himself, herself, or others to the facility's staff or administrator, to government officials, or to any person without fear of reprisal, and to join with other patients or individuals to work for improvements in patient care.

~~3.(d)~~ The right to be fully informed in writing, prior to or at the time of admission and during his or her attendance, of fees and services not covered under Title XVIII or Title XIX of the Social Security Act or other third party reimbursement options agents.

~~4.(e)~~ The right to be adequately informed of his or her medical condition and proposed treatment unless otherwise indicated in the written medical plan of treatment by the physician, and to participate in the planning of all medical treatment, including the right to refuse medication and treatment, unless otherwise indicated in the written medical plan of treatment by the physician, and to know the consequences of such actions.

~~5.(f)~~ The right to receive adequate and appropriate health care consistent with established and recognized practice standards within the community and with rules as promulgated by the Agency AHCA.

~~6.(g)~~ The right to have privacy in treatment and in caring for personal needs, confidentiality in the treatment of personal and medical records.

~~7.(h)~~ The right to be treated courteously, fairly, and with the fullest measure of dignity and to receive a written

statement of the services provided by the nursing home licensee facility.

~~(i) The right to freedom of choice in selecting a nursing home.~~

~~1. Each nursing home shall post a copy of the statement required by subsection (1) so that it is clearly evident.~~

~~(b)2. Any violation of the patient's rights set forth in this section shall constitute grounds for action by the Agency under the provisions of Section 400.102, F.S.~~

(10) ~~The scope~~ Scope of ~~services~~ Services of the geriatric outpatient nurse clinic must include: Geriatric Outpatient Nurse Clinic

(a) Observation of signs and symptoms.

(b) Assessment of health status/progress.

(c) Nursing diagnosis and plan of care.

(d) Nursing care of patients and counseling to maintain health and prevent disease, including diet counseling.

(e) Health instruction to control progression of disease and/or disability and self care measures.

(f) Administration of medication and treatment as prescribed by a person licensed in this state to prescribe such medications and treatment.

(g) Provision of progress reports to the attending physician.

(h) Referral for additional services as needed.

(i) Follow-up on a regular basis by communication with the patient, the patient's physician, and other agencies or persons to which referrals were made.

(j) When staffed by an ARNP ~~Advanced Registered Nurse Practitioner~~ advanced registered nurse or physician's assistant ~~Physician's Assistant~~, additional services may be provided dependent upon their respective certification authority. (Sections 458.347, 459.022, 464.003(3)(c), F.S.).

(11) Clinical Records.

(a) The clinic must shall maintain a clinical record for every patient receiving health services that contain the following:

1. Identification data including name, address, telephone number, date of birth, sex, social security number, clinic case number if used, next of kin or guardian and telephone number, name and telephone number of patient's attending physician.

2. Assessment of problems.

3. A hHealth cCare pPlan including diagnosis ~~diagnose~~, type, and frequency of services and when receiving medications and medical treatments, the medical treatment plan and dated signature of the physician or designee ~~health professional~~ licensed in this state to prescribe such medications and treatments.

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

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

b. Services rendered with progress reports.

c. Observations.

d. Instructions to the patient and family.

e. Referrals made.

f. Consultation reports.

g. Case conferences.

h. Reports to physicians.

i. Termination summary which must include:

(I) Date of first and last visit.

(II) Total number of visits by discipline.

(III) Reason for termination of service.

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

(V) Condition of patient on discharge.

j. Clinical records must shall be confidential. Information may be released by the nurse, ARNP or physician's assistant responsible for clinical services only in accordance with state and federal regulations related to patient records and confidentiality.\*

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

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

~~(III) When so ordered by the courts.~~

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

(a) All prescriptions for medications must shall be noted on the patient's record, and include the date, drug,

dosage, frequency, method or site of administration, and the authorized health care professional's signature.

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

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

(d) An emergency plan for reversal of drug reaction to include the nursing home licensee's pro re nata (P.R.N. or "as needed") facility's PRN standing orders for medications available in the Emergency Drug medication Kit.

(e) If there is not a separate Emergency Drug medication Kit in the clinic, the nursing home licensee's facility's Emergency Drug medication Kit ~~must shall~~ be immediately accessible for use in the outpatient clinic.

(f) A drug storage system that includes:

1. Prescribed medications for individual outpatients may be retained in the clinic. These medications ~~must shall~~ be stored separately from those of the nursing home in-patients for preventive measures and treatment of minor illnesses.

2. Multi-dose containers ~~must shall~~ be limited to medications or biologicals commonly prescribed for preventive measures and treatment of minor illnesses.

3. A list ~~must shall~~ be kept of patients receiving medication from multi-dose medication containers.

Rulemaking Specific Authority ~~381.493-381.497~~, 400.141(5)(3), 400.23(2) FS. Law Implemented 400.33, 400.141, 400.333 FS. History—New 4-27-78, Formerly 10D-29.71, 10D-29.071, 59A-4.071, Amended 2-6-97, \_\_\_\_\_.

59A-4.165 Nursing Home Guide.

(1) Pursuant to Section 400.191 F.S., the Agency shall provide information to the public in consumer-friendly printed and electronic formats (hereafter collectively the "Guide") to assist consumers and their families in comparing and evaluating nursing home facilities.

(2) The format of the printed Guide is shown in the "Nursing Home Guide Performance Measures Algorithm 2000" document, dated July 2000, incorporated by reference herein.

(3) The format of the electronic Guide will be the same as the printed Guide, but with the addition of the following:

(a) The ability to search for a nursing home facility electronically.

(b) Details of each deficiency which deficiencies the nursing home facility has been cited for over the time period specified in Section 400.191, F.S. past 45 months

(4) The data provided in the Guide shall include the following:

(a) General guidance about when a nursing home is the appropriate choice of care.

(b) General guidance about selecting a nursing home.

(c) Contact information such as phone numbers and web sites where questions can be answered, and further information obtained.

(d) A listing of all nursing home facilities in the State of Florida, including hospital based skilled nursing units. This listing shall include for each nursing home facility the following:

1. Name;

2. Address;

3. Voice and fax phone numbers;

4. Web address of facility;

5. A recognition if the nursing home licensee facility has been awarded a Gold Seal;

6. The current licensee;

7. Which calendar year the current licensee became the licensee;

8. Whether the licensee is a for-profit, or non-profit entity, and whether or not the nursing home facility is part of a retirement community;

9. Any corporate or religious affiliations;

10. The number of private, semi-private, and total beds at the nursing home facility;

11. The lowest daily charge for a semi-private room;

12. The payment forms accepted;

13. Any special services or amenities, or recreational programs provided;

14. Any non-English languages spoken by the administrator or staff of the nursing home facility; and

15. A summary of the deficiencies found at the nursing home facility over the time period specified in Section 400.191, F.S. a 45 month period prior to the publication of the Guide. The summarization procedure is discussed in detail below.

(5) The Guide will employ a procedure for summarizing the deficiencies as follows:

(a) All deficiencies cited over the most recently available time period as specified in Section 400.191, F.S. ~~45 month period~~ prior to the publication of the Guide will be collected.

(b) Each citation will be assigned points based on the type of deficiency and its assigned severity and scope. For those nursing homes facilities that are not federally certified, each citation will be assigned points based on the type of deficiency and its assigned class. Nursing homes Facilities that are federally certified have their deficiencies recorded as F-Tags and K-Tags. Nursing homes Facilities that are not federally certified receive N-Tags instead of F-Tags and K-Tags. For the non-federally certified nursing homes facilities the findings supporting each N-Tag shall be read by the Agency to determine which F-Tag or K-Tag each of the cited N-Tags is equivalent to. The points assigned to an N-Tag shall be those that would be assigned to the equivalent F-Tag or K-Tag, if the nursing home facility were federally certified.

(c) A score for a nursing home facility will be computed by summing the points of all of its citations, and then dividing this sum by the number of annual recertification surveys conducted at the facility in the same ~~45 month~~ period as in paragraph (a) above. For those nursing homes facilities that are not federally certified, the number of annual licensure surveys will be used in place of the number of annual recertification surveys.

(d) For federally certified nursing homes facilities, the above computations will reflect any changes resulting from the Informal Dispute Resolution process, or administrative or appellate proceedings; inasmuch as the federal Centers for Medicare and Medicaid Services Health Care Financing Administration concurs with such changes.

(e) The scores for the freestanding nursing facilities will be ranked within each region. The regions are defined in the "Nursing Home Guide Performance Measures Algorithm," ~~document, dated~~ July 2000, incorporated by reference herein.

(f) Ranks for the hospital based skilled nursing units will be assigned the same rank as the freestanding nursing home facility in the same region with an equal or next lower score.

(g) These ranks shall be presented numerically and/or symbolically in the Guide.

(h) (b) through (g) shall be repeated for subsets of the citations. These subsets are discussed in the "Nursing Home Guide Performance Measures Algorithm," ~~document, dated~~ July 2000, incorporated by reference herein.

(i) Nursing homes Facilities that are federally certified have their deficiencies recorded as F-Tags and K-Tags. Nursing homes Facilities that are not federally certified receive N-Tags instead of F-Tags and K-Tags. For the non-federally certified nursing homes facilities the findings supporting each N-Tag shall be read by the Agency to determine which F-Tag or K-Tag each of the cited N-Tags is equivalent to. The sub-setting of the tags in (h) for non-certified facilities shall be accomplished by using these equivalent F-Tags and K-Tags.

(j) The documents incorporated by reference may be obtained from the Agency for Health Care Administration, Managed Care and Health Quality Division, 2727 Mahan Dr., MS 33, Tallahassee, FL 32308.

(6) The electronic version of the guide will be available at <http://ahcaxnet.fdhc.state.fl.us/nhcguide/www.fdhc.state.fl.us> and [www.floridahealthstat.com](http://www.floridahealthstat.com).  
Rulemaking Specific Authority 400.191(6) FS. Law Implemented 400.191 FS. History--New 2-15-01, Amended \_\_\_\_\_.

59A-4.166 Nursing Home Consumer Satisfaction Survey.

~~(1) Pursuant to Section 400.0225, F.S., the Agency or its contractor shall conduct consumer satisfaction surveys of all nursing homes and skilled nursing units of hospitals in the state. These nursing homes and skilled nursing units shall hereafter be referred to as "nursing facilities":~~

~~(2) The Agency or its contractor will survey family members and guardians of residents of these nursing facilities by way of mail surveys. This will require each nursing facility to provide to the Agency or its contractor, upon request, the names and addresses of at least one family member or guardian for each resident.~~

~~(3) The Agency or its contractor will interview residents of these facilities in person. This will require each nursing facility to provide to the Agency or its contractor, upon request, a list of all residents, along with each resident's room number, and each resident's birth date.~~

~~(4) The Agency or its contractor shall conduct these surveys and interviews at each nursing facility at least annually.~~

~~(5) The specific protocol for conducting these surveys and interviews is shown in the "Nursing Home and Skilled Nursing Unit Resident and Family Member Survey Project" document, dated July 2000, incorporated by reference herein.~~

~~(6) Only data summarized to the level of the facility may be released.~~

~~(7) The documents incorporated by reference may be obtained from the Agency for Health Care Administration, Managed Care and Health Quality Division, 2727 Mahan Dr., Tallahassee, FL 32308.~~

Rulemaking Specific Authority 400.0225 FS. Law Implemented 400.0225 FS. History--New 2-15-01, Repealed \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Molly McKinstry, Chief, Bureau of Long-Term Care

Services

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Holly Benson, Secretary, Agency for Health Care Administration

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 22, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 22, 2008