

## CHAPTER 58A-14 ADULT FAMILY-CARE HOMES

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### 58A-14.002 Definitions.

The following terms or phrases are defined in Section 429.65, F.S., and are applicable to this rule chapter: activities of daily living (ADLs), adult family-care home (AFCH), agency (AHCA), aging in place, appropriate placement, chemical restraint, department, disabled adult, frail elder, personal services or personal care, provider, relative, relief person, and resident. Additional definitions applicable to this rule chapter are as follows:

(1) "Adult household member" means the provider and any person, 18 years of age or older, who is permanently or regularly present in the home for more than a few hours at a time. A person shall be considered a household member even though the person has another residence if the person is in a position of familial authority or perceived familial authority.

(2) "Advertise" means any written, printed, oral, visual, or electronic promotion, statement of availability, qualifications, services offered, or other similar communication appearing in or on television, radio, the Internet, billboards, newspapers, newsletters, magazines, business cards, flyers, brochures or other medium used for the purpose of attracting potential residents to an adult family-care home. A complimentary listing of the licensed AFCH's name, address, and telephone number in the telephone directory shall not be considered advertising.

(3) "Applicant" means an individual applying for an adult family-care home license.

(4) "Assistance with activities of daily living" means individual assistance with the following:

(a) Ambulation – Providing physical support to enable the resident to move about and maintain balance and providing necessary assistance with walking, stair climbing, or pushing a wheelchair.

(b) Bathing – Assembling towels, soaps, and other necessary supplies, helping the resident in and out of the bathtub or shower, turning water on and off, adjusting water temperatures, washing and drying portions of the resident's body which are difficult to reach, or being available while the resident is bathing.

(c) Dressing – helping the resident to choose, to put on, and to remove appropriate clothing.

(d) Eating – Helping with cutting food, pouring beverages, and hand feeding residents who are unable to feed themselves.

(e) Grooming – Helping the resident with shaving, oral care, care of the hair, and nail care.

(f) Toileting – Reminding the resident about using the toilet, assisting the resident to the bathroom, helping to undress, positioning on the commode, and helping with related personal hygiene, including changing adult briefs

(5) "Bedridden" means confined to bed because of inability to ambulate or transfer to a wheelchair even with assistance, or to sit safely in a chair or wheelchair without personal assistance or physical restraint.

(6) "Capacity" means the number of residents for which an adult family-care home has been licensed to provide room, board and personal care.

(7) "Case manager" means an individual employed by or under contract with any agency or organization, public or private, who has responsibility for assessing resident needs, planning services, coordinating and assisting residents to gain access to needed medical, mental health, social, housing, educational or other services, and monitoring and evaluating service delivery.

(8) "Deficiency" means an instance of non-compliance with the requirements of Part II, Chapter 429, F.S., and this rule chapter.

(9) "Health care provider" means a physician or physician's assistant licensed under Chapter 458 or 459, F.S., or advanced registered nurse practitioner licensed under Chapter 464, F.S.

(10) "Long-Term Care Ombudsman Council" (LTCOC) means the State Long-Term Care Ombudsman Council or the district long-term care ombudsman councils established under Part I of Chapter 400, F.S.

(11) "Moratorium" means that an AFCH may not admit a new resident from the date the moratorium is imposed by AHCA until the date the moratorium is lifted by AHCA.

(12) "Nurse" means a licensed practical nurse (LPN), registered nurse (RN), or advanced registered nurse practitioner (ARNP) under Chapter 464, F.S.

(13) "Nursing progress notes" or "nursing notes" means a written record of nursing services, other than medication administration or the taking of vital signs, provided to each resident who receives such services. The notes shall be completed by the nurse who delivered the service and shall describe the date, type, scope, amount, duration, and outcome of services that are rendered; the general status of the resident's health; any deviations; any contact with the resident's health care provider; and contains the signature and credential initials of the person rendering the service.

(14) "Optional state supplementation (OSS)" means the state program providing monthly payments to eligible residents pursuant to Section 409.212, F.S., and Rule Chapter 65A-2, F.A.C.

(15) "Physical restraint" means a device or item which physically limits, restricts, or deprives an individual of movement or mobility. The term also includes any device which was not specifically manufactured as a restraint but which has been altered, arranged or otherwise used for this purpose or otherwise modified to be used as a physical restraint. The term does not include an item or device which the individual can remove or avoid without assistance.

(16) "Pressure sore" means a breakdown in skin integrity caused by immobility and prolonged pressure. The 4 stages of pressure sores can be identified as follows: stage 1 – a nonblanching macule that may appear red or violet; stage 2 – a skin breakdown as far as the dermis; stage 3 – a skin breakdown into the subcutaneous tissue; stage 4 – penetrate bone, muscle or the joint.

(17) "Resident's representative" means a guardian, attorney-in-fact, next-of-kin, health care surrogate or proxy, or other responsible party with authority to make decisions on behalf of a resident.

(18) "Staff" means any person employed by or under contract to the provider, who directly or indirectly provides services to residents. Staff does not include persons contracting directly with a resident.

(19) "Twenty-four-hour nursing supervision" means nursing services that are ordered by a physician for a person whose condition requires physician supervision and continued monitoring of vital signs and physical status. Such services must be medically complex enough to require the constant supervision, assessment, planning, or intervention by a nurse; be performed by or under the direct supervision of a nurse; required on a daily basis; and consistent with the nature and severity of the resident's condition or the disease state or stage.

*Specific Authority 429.67, 429.73 FS. Law Implemented 429.65, 429.67, 429.71, 429.73, 429.85 FS. History--New 5-14-86, Amended 2-2-95, Formerly 10A-14.002, Amended 9-19-96, 6-6-99.*

### **58A-14.003 License Application, Renewal and Conditional Licenses.**

#### **(1) LICENSE APPLICATION.**

(a) Any individual desiring to obtain an initial license to operate an adult family care home shall file an Adult Family Care Home License application, AHCA Form 3180-1022, January 2006, which is incorporated by reference and may be obtained from the Assisted Living Unit, Agency for Health Care Administration, 2727 Mahan Drive, Mail Stop 30, Tallahassee, Florida 32308-5402, Phone (850)487-2515. The completed application must be signed by the applicant, notarized, and submitted to the Assisted Living Unit at the address cited above. The application shall be accompanied by the following:

1. A completed Level 1 Criminal History Request, AHCA Form 3110-0002, July 2005 for the applicant, each relief person, all adult household members, and all staff. The form is incorporated by reference and available from the Background Screening Unit, Agency for Health Care Administration, 2727 Mahan Drive, Tallahassee, Florida 32308-5402, Phone (850)410-3400. A check or money order must be submitted to cover the cost of each criminal history request. The completed form and screening fee will not be required for persons who comply with the requirements pursuant to Section 429.67(4)(a), (b), F.S.

2. A description and explanation of any exclusions, permanent suspensions, or involuntary terminations of the applicant from the Medicaid or Medicare programs or any other governmental health care or health insurance program.

3. If located in an area zoned single-family or multi-family, a community residential home certification form signed by the Department of Children and Family Services' district community residential home coordinator. If not located in an area zoned single-family or multi-family, Local Zoning Form, AHCA Form 3180-1021, September 1996, which is incorporated by reference, or a letter from the local zoning authority, signed by the county zoning official, which states that the applicant is in compliance with local zoning ordinances.

4. Documentation of a satisfactory sanitation inspection as required under Rule 58A-14.009, F.A.C.

5. Documentation of a satisfactory fire safety inspection as required under Rule 58A-14.0091, F.A.C.

6. Income and Expense Statement, AHCA Form 3180-1017, September 1996, which is incorporated by reference.

7. Written assurance affirming that the applicant is aware of and will complete the training requirements as described in Rule 58A-14.008, F.A.C.

8. A licensing fee of \$100.

(b) During the licensing process, the agency shall:

1. Conduct Level 1 background screening on the applicant, all adult household members, each relief person, and all staff pursuant to Chapter 435, F.S.

2. Conduct an on-site survey of the prospective AFCH. During the survey the agency shall:

a. Visually inspect all rooms and outside grounds of the home and determine that the home meets the minimum physical site requirements of Rule 58A-14.009, F.A.C., prior to resident occupancy; and

b. Determine the capacity of the home.

(c) Any deficiencies identified during the survey must be corrected prior to issuance of a license.

(d) If, at the time of applying for an initial license, an applicant is already providing room, board, and one or more personal services to persons who will be considered residents, the provider must be in compliance with all admission and care standards applicable to residents under this rule chapter upon licensing.

(2) LICENSE RENEWAL.

(a) The agency shall annually provide an application form for license renewal, AHCA Form 3180-1022, January 2006, either electronically or by mail delivery, to AFCH providers at least 120 days prior to the expiration of the current license. The provider shall mail or hand-deliver the license renewal application to the agency at the address cited in paragraph (1)(a) of this rule a minimum of 90 days prior to the expiration date appearing on the current license.

(b) In addition to AHCA Form 3180-1022, all applicants for license renewal shall provide the following:

1. Documentation of a satisfactory sanitation inspection as required under Rule 58A-14.009, F.A.C. Documentation of a satisfactory sanitation inspection shall be provided at the time of the agency's annual survey. In addition, a copy of the annual sanitation inspection report shall be submitted no later than 30 calendar days after the date of the inspection to the Assisted Living Unit at the address cited in paragraph (1)(a) of this rule. Failure to comply with this requirement shall result in administrative enforcement pursuant to Sections 429.69 and 429.71, F.S., and Rule 58A-14.010, F.A.C.

2. Documentation of a satisfactory fire safety inspection as required under Rule 58A-14.0091, F.A.C. Documentation of a satisfactory fire safety inspection shall be provided at the time of the agency's annual survey. In addition, a copy of the annual fire safety inspection report shall be submitted no later than 30 calendar days after the date of the inspection to the Assisted Living Unit at the address cited in paragraph (1)(a) of this rule. Failure to comply with this requirement shall result in administrative enforcement pursuant to Sections 429.69 and 429.71, F.S., and Rule 58A-14.010, F.A.C.

3. A licensing fee of \$100, or \$150 if not filed 90 days prior to the license expiration date.

(c) During the license renewal process the agency shall:

1. Conduct an on-site survey of the AFCH. During the survey the agency shall:

a. Visually inspect all rooms and the outside grounds of the home and determine that the home meets the minimum physical site requirements of Rule 58A-14.009, F.A.C. The agency shall refer all safety and sanitation concerns to the county health department, and all fire safety concerns to the local authority with jurisdiction over fire safety.

b. Verify that residents meet the criteria for continued residency in an AFCH as provided in Rule 58A-14.0061, F.A.C., and that resident services are being provided in accordance with the standards established in Rule 58A-14.007, F.A.C.

c. Verify that the AFCH provider is complying with all facility, staff, and resident records requirements as provided in Rule 58A-14.0085, F.A.C.

2. Obtain information from the district Long-Term Care Ombudsman Council regarding complaints and whether complaints have been successfully resolved.

3. Request documentation of adequate financial resources to operate the adult family-care home in compliance with health and safety standards if the financial stability of the AFCH is in question. Indicators of financial instability are: filing of bankruptcy; issuance of checks returned for insufficient funds; non-payment of rent, mortgage, utilities, staff wages or salaries, or taxes; confirmed complaints to the agency or ombudsman council regarding withholding of funds or refunds due residents; and any other information which indicates the inability of the home to meet its financial responsibilities in a full and timely manner.

(3) CONDITIONAL LICENSE. The agency may issue a conditional license to an AFCH if, at the time of license renewal the facility is found to have uncorrected violations.

(a) The issuance of a conditional license shall be contingent upon agency approval of a written plan of correction which includes corrective steps that will be taken to eliminate the deficiencies and a timetable for correction of the deficiencies by the expiration date of the conditional license.

(b) A conditional license shall be issued by the agency only for that time period necessary to comply with applicable licensing standards and complete license renewal procedures, but not to exceed 6 months.

(c) A conditional license shall be revoked and license denied if subsequent follow-up surveys by the agency indicate that necessary progress has not been made toward compliance with applicable licensing standards.

(d) The issuance of a conditional license does not change the annual license expiration date.

(4) LICENSE DENIAL. Applicants and providers denied a license shall be notified by the agency of their right to appeal the denial of the license, the remedies available, and the time limit for requesting such remedies as provided under Part II of Rule Chapter 59-1, F.A.C. and Chapter 120, F.S.

*Specific Authority 429.67, 429.69, 429.71, 439.73 FS. Law Implemented 429.67, 429.69, 429.71, 429.73 FS. History—New 5-14-86, Amended 2-2-95, Formerly 10A-14.003, Amended 9-19-96, 3-25-98, 6-6-99, 1-1-04, 7-30-06.*

**58A-14.004 License.**

(1) Except for conditional licenses, all AFCH licenses shall be effective for 1 year from the date of issuance.

(2) A license to operate an AFCH is not transferable and is valid only for the provider named, the capacity stated, and the premises described on the license.

(3) The licensed provider shall give at least 60 days written notice to the AHCA Assisted Living Unit, each resident or resident's representative, and case managers of OSS recipients, of any intent to voluntarily close or sell a currently licensed AFCH.

(4) LICENSED CAPACITY.

(a) There shall be no more than 5 residents in any AFCH. The number of residents permitted in a particular adult family-care home will be determined by the agency based upon the fire safety standards provided under Rule 58A-14.0091, F.A.C., and compliance with physical site standards established in Rule 58A-14.009, F.A.C. An increase in capacity may not be made without the prior approval of the agency.

(b) Adult relatives of the provider who require personal care and supervision and reside in the home for more than 30 days shall be considered residents only for the purposes of determining capacity.

(c) Except homes licensed as adult foster homes or adult congregate living facilities prior to January 1, 1994, each AFCH must designate at least one licensed space for a resident receiving optional state supplementation.

(5) ADVERTISING. A licensed adult family-care home may advertise accommodations and services consistent with its license.

(a) The AFCH may not be listed in the yellow pages of the telephone directory under the heading of "nursing home" or "assisted living facility."

(b) An advertisement for an adult family-care home must include the term "adult family-care home" and the home's license number.

(c) Pursuant to Section 429.83, F.S., an AFCH claiming to provide special care for persons with Alzheimer's disease or other related dementias must disclose those special care services in any advertisement or in a separate document, which shall be distributed to the public upon request.

*Specific Authority 429.67, 429.73 FS. Law Implemented 429.67, 429.73, 429.83 FS. History—New 5-14-86, Amended 2-2-95, Formerly 10A-14.004, Amended 9-19-96, 6-6-99.*

**58A-14.0061 Admission and Appropriateness of Placement.**

(1) ADMISSION. In order to be admitted as a resident to an AFCH an individual must:

(a) Be at least 18 years of age.

(b) Be free from apparent signs and symptoms of any communicable disease, including tuberculosis which is likely to be transmitted to others as documented in the Health Assessment Form described in subsection (2). A person who has HIV infection may be admitted provided the person would otherwise be eligible for admission according to this rule.

(c) Be capable of self-preservation in an emergency situation involving the immediate evacuation of the AFCH, with assistance with ambulation if needed.

(d) Be able to perform, with supervision or assistance, activities of daily living.

(e) Not be a danger to self or others as determined by a health care provider or licensed mental health professional.

(f) Not require licensed professional mental health treatment on a 24-hour a day basis.

(g) Not have special dietary needs which cannot be met by the provider.

(h) Not be bedridden.

(i) Not have stage 3 or 4 pressure sores. An individual with a stage 2 pressure sore may be admitted only if the individual is under the care of a nurse pursuant to a plan of care issued by a health care provider. Such nursing service must be provided in accordance with Rule 58A-14.007, F.A.C.

(j) Not require the use of chemical or physical restraints.

(k) Not require 24-hour nursing supervision.

(l) Not have personal care and nursing needs which exceed the capability of the provider to meet or arrange for such needs. The provider is responsible for determining the appropriate placement of the individual in the AFCH.

(2) HEALTH ASSESSMENT. Prior to admission to an AFCH, the individual must be examined by a health care provider using the Resident Health Assessment, DOEA Form 1110, August 2003, which is incorporated by reference, and available from the Department of Elder Affairs, 4040 Esplanade Way, Tallahassee, FL 32399-7000. Previous versions of this form completed up to 6 months after the effective date of this rule, January 1 2004 are acceptable.

(3) HOUSE RULES AND COMPLAINT PROCEDURES. Prior to, or at the time of admission a copy of the AFCH house rules, the Resident's Bill of Rights established under Section 429.85, F.S., the name, address, and telephone number of the district long-term care ombudsman council and the Florida Abuse Hotline, and the procedure for making complaints to the ombudsman council and the abuse registry must be provided to the resident or the resident's representative.

(4) TEMPORARY EMERGENCY SERVICES. Residents placed on an emergency basis by the Department of Children and Family Services pursuant to Section 415.105 or 415.1051, F.S., must meet the admission requirements of this rule. However, only residents whose stay in the home exceeds 30 days, must be examined by a health care provider under subsection (2) of this section, and covered by a residency agreement under Rule 58A-14.0062, F.A.C. A temporary emergency placement may not be made if the placement causes the home to exceed licensed capacity.

(5) CONTINUED RESIDENCY.

(a) The criteria for continued residency shall be the same as the criteria for admission, except that:

1. A resident may be bedridden for up to 7 days for a temporary illness.
2. A resident with a stage 2 pressure sore must be discharged if the pressure sore has not healed within 30 days or has not been reduced to stage 1.
3. A terminally ill resident who no longer meets the criteria for continued residency may continue to reside in the AFCH if:
  - a. The resident qualifies for, is admitted to, and consents to the services of a licensed hospice which coordinates the additional care that may be needed;
  - b. Continued residency is agreeable to the resident and the provider; and
  - c. An interdisciplinary care plan is developed and implemented by the hospice in consultation with the provider.
- (b) If the resident no longer qualifies for continued residency, the provider shall assist the resident to obtain another placement.
- (c) The provider is responsible for monitoring the continued appropriateness of placement of a resident in the home.
- (6) DISCHARGE.
  - (a) Except as provided in paragraph (b), a resident shall not be discharged without 30 days' written notice stating reasons for the move or transfer. The notice shall be delivered to the resident or the resident's representative.
  - (b) Residents shall only be moved or transferred without the required 30 day notice for the following reasons:
    1. The resident's health requires an immediate relocation to a facility which provides a more skilled level of care as certified by a physician;
    2. The resident's behavior poses an imminent danger to self or others, significantly interferes with the orderly operation of the home, or is continually offensive to other residents; or
    3. The AFCH has had its license denied, revoked, or has voluntarily surrendered its license.

*Specific Authority 429.73 FS. Law Implemented 400.618, 429.65, 429.73, 429.81, 429.85 FS. History--New 2-2-95, Formerly 10A-14.0061, Amended 9-19-96, 6-6-99, 1-1-04.*

#### **58A-14.0062 Residency Agreement.**

- (1) Pursuant to Section 429.81, F.S., before or at the time of admission to an AFCH, the provider and the resident or the resident's representative must sign a residency agreement, a copy of which must be given to the provider and kept on file for 5 years after the expiration of the agreement, and a copy of which must be provided to the resident or resident's representative.
- (2) The residency agreement must include the following:
  - (a) A list specifically setting forth the services and accommodations to be provided by the adult family-care home.
  - (b) The daily, weekly or monthly rates and charges and a statement that the provider will provide at least 30 days' notice before implementing a rate increase.
  - (c) A bed hold policy for residents who request the provider to reserve a bed for the resident if the resident's health requires the resident to be admitted to a nursing home or hospital. The bed hold policy shall permit the provider to continue to charge the agreed upon daily rate until the provider receives notification in writing from the resident or the resident's representative that the resident will not be returning to the home. However, the provider may not continue to charge the agreed upon daily rate if the resident's physical or mental condition prevents the resident from giving notification and the resident does not have a representative to act on the resident's behalf.
  - (d) The AFCH's discharge policy.
  - (e) A refund policy to apply when a resident is discharged or dies. The refund policy shall state that:
    1. The resident or resident's representative is entitled to a prorated refund for any unused portion of payment beyond the discharge or termination date. The refund will be less the cost of documented damages to the AFCH caused by the resident before the discharge or termination date that results from circumstances other than normal use. Claims against the refund must be in writing and must include a list of all documented damages and costs.
    2. The refund must occur within 45 days of receipt of a written notice of discharge, or 15 days after the resident has moved or dies, whichever occurs later.
  - (3) An addendum shall be added to the residency agreement to reflect any additional services and charges not covered by the original agreement. Such addendum must be dated and signed by the provider and the resident or resident's representative and a copy given to the provider and the resident or the resident's representative.

*Specific Authority 429.81 FS. Law Implemented 400.628, 429.81, 429.85 FS. History--New 6-6-99.*

#### **58A-14.007 Standards and Practices for Care and Services.**

The adult family-care home provider shall ensure the provision of the following in accordance with Part II of Chapter 429, F.S., this rule chapter, and the residency agreement:

##### **(1) PERSONAL SERVICES.**

- (a) Assistance with or supervision of the activities of daily living as required by the resident. For a diabetic resident or a resident who has documented circulatory problems, cutting toenails shall only be permitted with written approval of the health care provider.
- (b) Assistance with or supervision of the self-administration of medication, or medication administration.
  1. Residents who are capable of self-administering their medications shall be encouraged and allowed to do so.

2. For residents who require supervision or assistance with self-administration, the provider or staff shall, as needed:

- a. Remind residents when to take medications;
- b. Prepare and make available such items as water, juice, cups, spoons, or other items necessary for administering the medication;
- c. Obtain the medication and provide it to the resident;
- d. Observe the resident take the medication and verify that the resident is taking the dosage as prescribed; and
- e. Provide any other assistance at the express direction of the resident or the resident's representative, except for administering the medication as defined in Section 465.003, F.S.

3. Medication administration in an AFCH is a nursing service and may only be provided as described in subsection (5) of this rule, except that instead of nursing progress notes, a record of medication administration shall be maintained which includes the name of the resident and any known allergies the resident may have; the name of the resident's health care provider and the health care provider's telephone number; the name of each medication prescribed, its strength, and directions for use; and a chart for recording each time the medication is taken, any missed dosages, refusals to take medication as prescribed, or medication errors. The chart must be updated each time the medication is administered.

4. A list of currently prescribed medications shall be maintained for all residents who self-administer or who require supervision or assistance with medications which includes the name of each medication prescribed, its strength and directions for use, and common side effects.

5. Nurses may manage weekly pill organizers for residents who self-administer or who require supervision or assistance with self-administration.

6. Prescription medications which are centrally stored by the provider shall be appropriately stored in their legally dispensed, labeled, original containers. Appropriately stored means that the medication be kept in an area free of dampness and abnormal temperatures, except that a medication requiring refrigeration shall be refrigerated.

#### (2) SUPERVISION.

(a) The AFCH provider shall provide general supervision which includes being aware of the resident's general whereabouts and well-being while the resident is on the premises of the AFCH in order to ensure the resident's safety and security, and reminding the resident of any important tasks or activities, including appointments, as needed by the resident. The provider is responsible for determining and providing adequate supervision however; under no circumstances shall a resident be left unattended for more than 2 hours.

(b) Any major incident and the action taken in response to that incident must be documented in the resident's record. A major incident includes:

1. An injury to a resident which requires assessment and treatment by a health care provider. The resident's record must include a description of the circumstances under which the injury occurred.

2. Determining that a resident is missing. Whenever a resident is determined to be missing, the provider, relief person, or staff-in-charge shall notify the local law enforcement agency within 1 hour. The resident's representative, next-of-kin, and case manager shall be notified within 4 hours or within a time frame previously agreed upon in writing between the provider and the resident's representative, next-of-kin, or case manager.

3. Any event, such as a fire, natural disaster, or other occurrence which results in the disruption of the AFCH's normal activities.

4. The death of a resident. The resident's representative, next-of-kin, and case manager must be notified within 4 hours of death or within a time frame previously agreed upon in writing between the provider and the resident's representative, next-of-kin, or case manager.

(3) HEALTH MONITORING. The AFCH provider shall be responsible for observing, recording and reporting any significant changes in the resident's normal appearance, behavior or state of health to the resident's health care provider and representative or case manager. Significant changes include a sudden or major shift in behavior or mood; a deterioration in health status, such as unplanned weight change, stroke, heart condition, a stage 2 pressure sore. Ordinary day-to-day fluctuations in functioning and behavior, short-term illness such as a cold, or the gradual deterioration in the ability to carry out the activities of daily living that accompanies the aging process are not considered significant changes. As part of health monitoring, residents shall be weighed on a monthly basis.

#### (4) FOOD SERVICE.

(a) For residents not routinely absent from the home for a day program or other purpose, at least 3 meals shall be prepared and served in the home where the resident lives during each 24 hour period. Beverages and nutritious snacks shall be made available between meals.

(b) If residents are routinely absent from the AFCH during a regular meal time, they must be provided with take-out meals if other provisions have not been made by the resident or the day program.

(c) Payment for meals eaten away from home for the convenience of the provider (i.e., restaurants or senior meal sites) is the responsibility of the provider. However, meals and snacks as part of an individually arranged recreational outing are the responsibility of the resident.

(d) In order to ensure adequate nutrition and variety, meals shall be planned based on the recommendations of the U.S. Department of Agriculture's Food Guide Pyramid – A Guide to Daily Food Choices, dated August 1992, which is incorporated by reference; prepared by methods which conserve nutritional value; and served in a form easy for the residents to manage. A copy of the Food Guide Pyramid may be obtained from the Assisted Living Program, Department of Elderly Affairs, 4040 Esplanade Way, Tallahassee, Florida 32399-7000, telephone number (850) 414-2309.

(e) Special diets are to be provided as prescribed in written orders by the resident's health care provider.

(f) Consideration shall be given to the resident's cultural and ethnic background and individual preferences in food selection and preparation.

(g) Dining and serving arrangements shall provide an opportunity for residents to make food selections.

(h) All residents shall be given the opportunity to eat with the AFCH provider, other residents, and other members of the household.

(5) NURSING SERVICES. In order to permit the resident to age in place, any nursing service needed by the resident can be provided or arranged for by the provider, or the resident or the resident's representative may directly contract with a licensed home health agency or nurse to provide these services, provided that:

(a) The resident does not exceed the admission and continued residency standards provided under Rule 58A-14.0061, F.A.C.; and

(b) If provided or arranged for by the AFCH provider, the nursing service must be:

1. Authorized by a health care provider's order;
2. Medically necessary and reasonable for treatment of the resident's condition;
3. Properly provided pursuant to Chapter 464, F.S., and the prevailing standard of practice in the nursing community;
4. A service that can be safely, effectively, and efficiently provided in the home;
5. Recorded in nursing progress notes; and
6. Provided in accordance with the residency agreement.

(6) ADDITIONAL SERVICES. The adult family-care home provider shall also ensure the provision of the following:

(a) The arrangement of, transportation to, and for someone to accompany the resident to medical, dental, nursing, or mental health appointments, to the extent needed by the resident.

(b) Clothing that is in good repair, consistent with general standards of dress in the community, and appropriate for the season.

(c) Linens and laundry services shall be furnished as needed by the provider. Residents who wish to use their own linens, or who are willing and able to do their own laundry shall be permitted to do so.

(d) Securing social and leisure services for the resident.

(e) Arranging for participation in religious activities, if requested by the resident.

(f) A congenial and homelike atmosphere within the residence.

*Specific Authority 429.73 FS. Law Implemented 429.73, 429.85 FS. History—New 5-14-86, Amended 2-2-95, Formerly 10A-14.007, Amended 9-19-96, 6-6-99.*

### **58A-14.008 Staff Qualifications, Responsibilities and Training.**

#### **(1) MINIMUM STAFF REQUIREMENTS.**

(a) The provider, all staff, each relief person, and all adult household members must submit a statement from a health care provider, based on an examination conducted within the last six months, that the person is free from apparent signs and symptoms of communicable diseases including tuberculosis. Freedom from tuberculosis must be documented on an annual basis. Persons with a positive tuberculosis test must submit a physician's statement that the person does not constitute a risk of communicating tuberculosis.

(b) The provider, all staff, each relief person, and all adult household members must meet Level 1 background screening requirements established in Section 435.03, F.S., or have been exempted from disqualification as provided in Section 435.07, F.S. The provider must submit a completed AHCA Forms 3110-0002, or other evidence of compliance as provided in Section 429.67, F.S., and Rule 58A-14.003, F.A.C., for any staff, relief persons, or adult household members not screened at the time of initial license application pursuant to the screening schedule provided in Section 435.05, F.S.

(c) The provider, each relief person, and all staff must comply with the training requirements provided in subsection (4) of this rule.

#### **(2) PROVIDER.**

(a) An adult family-care home provider must:

1. Be at least 21 years of age.
2. Live in the home.
3. Be able to read, write and complete written materials involved in applying for an AFCH license and maintaining an AFCH.
4. Complete required training.

(b) An adult family-care home provider is responsible for:

1. The operation and maintenance of the AFCH in accordance with Part VII of Chapter 400, F.S., and this rule chapter.

2. Ensuring that residents are appropriate for placement and continued residency in the home as provided under Rule 58A-14.0061, F.A.C., and that care and services are provided for residents in accordance with Rule 58A-14.007, F.A.C.

(c) In the event of severe illness, incapacity, or death of the provider, the relief person or staff in charge shall notify each resident's representative or case manager, and the AHCA Area Office within 24 hours.

(3) RELIEF PERSONS.

(a) The adult family care home provider must designate one or more relief persons to assume responsibility for the care of residents if the provider is not available to perform that duty.

(b) The relief person must be:

1. At least 21 years of age; and
2. Knowledgeable about and able to provide for all care needs of the residents.

(c) The provider must notify the agency in writing within 30 days of a change in relief persons and ensure that the relief person is appropriately background screened and trained as described in this rule.

(4) TRAINING.

(a) All AFCH providers must attend a 12-hour basic adult family-care home training program which covers the minimum requirements of Section 400.6211, F.S., prior to accepting any residents, or for providers who already have persons residing in the home that will be considered residents, prior to licensing.

(b) The AFCH provider shall annually obtain 3 hours of continuing education in topics related to the care and treatment of frail elders or disabled adults, or the management and administration of an adult family-care home.

(c) The AFCH provider, each relief person, and any person left in sole charge of residents, which may include staff, household members or volunteers, must hold a currently valid card documenting completion of courses in First Aid and CPR. A nurse shall be considered as having met the training requirement for First Aid.

(d) Prior to assuming responsibility for the care of residents or within 30 days of employment, the AFCH provider shall ensure that each relief person and all staff receive training in areas that are relevant to the person's job duties, including emergency and evacuation procedures, universal precautions, food safety, reporting abuse and neglect, and resident rights.

(e) Except as otherwise noted, certificates of any training required by this rule shall be documented in the facility's personnel files.

*Specific Authority 429.67, 429.73, 429.75 FS. Law Implemented 429.67, 429.73, 429.75 FS. History—New 2-2-95, Formerly 10A-14.008, Amended 9-19-96, 6-6-99, 1-1-04, 7-30-06.*

**58A-14.0085 Records.**

(1) RESIDENT RECORDS. The AFCH provider shall maintain a separate record for each resident on the premises and available for inspection by the agency.

(a) The record shall, at a minimum, contain:

1. The Resident Health Assessment, DOEA Form 1110, required by Rule 58A-14.0061, F.A.C. A completed and signed form faxed by the health care provider shall be acceptable.

2. A copy of the residency agreement which meets the requirements of Rule 58A-14.0062, F.A.C., including a copy of any notices of rate increases sent to the resident or the residents representative and any addendums.

3. For residents who are OSS recipients, a copy of the Alternate Care Certification for Optional State Supplementation (OSS) Form, CF-ES 1006, February 2005, provided by the Department of Children and Family Services.

4. Resident information which includes:

a. The name, address and telephone number of the resident's guardian, attorney-in-fact, health care surrogate, next-of-kin, and any other responsible party with authority to make decisions on behalf of the resident.

b. The name, address and telephone number of the resident's health care provider, health maintenance organization, dentist and case manager as applicable.

5. A complete accounting of any resident funds being received or distributed by the provider as required by Section 400.628, F.S.

6. For residents who self-administer, with or without supervision or assistance, a list of the resident's current medications; or for resident's receiving administration, the record of medications administered, as required under Rule 58A-14.007, F.A.C.

7. For residents receiving nursing services provided or arranged for by the provider, the nursing progress notes required under Rule 58A-14.007, F.A.C., and the health care provider's order authorizing the nursing service.

8. A copy of any special diet order prescribed by the resident's health care provider as required under Rule 58A-14.007, F.A.C.

9. A record of any major incidents or significant health changes and action taken in response to such incidents or changes as required under Rule 58A-14.007, F.A.C.

10. The resident's monthly weight record as required by Rule 58A-14.007, F.A.C.

11. Documentation that the resident's bill of rights and the procedure for lodging complaints has been discussed with the resident or the resident's representative, as required by Rule 58A-14.0061, F.A.C.

12. Documentation that the house rules have been discussed with the resident or the resident's representative as required by Rule 58A-14.0061, F.A.C.

13. A copy of any notice of discharge sent to the resident or the resident's representative pursuant to Rule 58A-14.0061, F.A.C.

(b) Closed resident records shall be retained for a period of 5 years after the resident leaves the AFCH. The provider shall be permitted 1 working day to produce closed records.

(2) STAFF RECORDS.

(a) An AFCH provider shall, at a minimum, maintain the following personnel records on the premises and available for inspection by the agency:

1. For the AFCH provider, each relief person, each adult household member, and each staff person verification of freedom from communicable disease as required under Rule 58A-14.008, F.A.C.

2. For the AFCH provider, each relief person, and each staff person:

a. Written documentation of all training required by Rule 58A-14.008, F.A.C.

b. A copy of any professional license.

3. For each staff member employed by the provider, a copy of the employment application which shall include the date of beginning employment.

4. For any person left in sole charge of residents written documentation of First Aid and CPR training as required by Rule 58A-14.008, F.A.C.

(b) If the AFCH provider contracts with a staffing agency to provide services to residents, the contract between the AFCH provider and the staffing agency must specifically describe the services the agency will be providing to residents. The AFCH provider is not required to maintain personnel records for staff provided by a staffing agency.

(3) FACILITY RECORDS. The AFCH provider shall maintain the following records on the premises and ensure the records are available for inspection by the agency:

(a) The AFCH license issued by the agency, which shall also be available to the public upon request.

(b) A copy of the most recent county health department inspection required by Rule 58A-14.009, F.A.C.

(c) A copy of the most recent fire safety inspection required by Rule 58A-14.0091, F.A.C.

(d) Documentation of radon testing.

(e) The emergency plan required by Rule 58A-14.0091, F.A.C.

(f) An up-to-date log listing all residents, and each resident's:

1. Date of admission, the place admitted from and the reason for moving into the home, if known; and

2. Date of discharge, the reason for discharge, and the location to which the person has been discharged, or if the person is deceased, the date of death.

(g) All completed survey and complaint investigation reports, and notices of sanctions and moratoriums issued to the AFCH by the agency within the last 3 years, which shall also be available to the public upon request.

(h) For AFCHs which claim to provide special care for persons with Alzheimer's disease or related disorders, a copy of all advertisements or documents distributed to the public as described in Rule 58A-14.004, F.A.C.

(i) The facility shall maintain a record of each fire exit drill on Form D14-1437, revised 1/2001, Fire Exit Drill Records for Adult Family Care Homes as set forth in Rule 69A-57.006(6), and (7), F.A.C.

*Specific Authority 429.67, 429.73, 429.75, 429.81 FS. Law Implemented 429.67, 429.73, 429.75, 429.81, 429.85 FS. History--New 6-6-99, Amended 7-30-06.*

### **58A-14.009 Physical Site Standards.**

(1) GENERAL REQUIREMENTS.

(a) The AFCH shall be located, designed, equipped, and maintained to ensure a home-like environment, and to provide safe care and supervision for all residents. Residents shall be allowed free use of all space within the home except when such use interferes with the safety, privacy, and personal possessions of household members and other residents.

(b) The AFCH shall be structurally sound and in good repair. Windows, doors, plumbing, and appliances shall be functional and in good working order. All furniture and furnishings shall be clean and functional.

(c) In order to ensure a safe and sanitary environment, the AFCH must be inspected by the county health department, pursuant to Chapter 64E-12, F.A.C., at the time of license application and prior to license renewal.

(2) COMMON AREAS.

(a) At a minimum, there must be 40 square feet of common space per each resident and household occupant, or a total of 150 square feet of common area, whichever is greater. Common space includes the living room, family room, and dining room. The basement and garage shall not be included in the total common area unless such space was constructed or renovated to be used as a common area pursuant to a lawfully issued permit. Household occupants include residents and household members, 2 years of age and older, who reside in the AFCH.

(b) The furnishings in common areas shall be adequate to accommodate all residents and household members, including allowing the residents and household members to eat together in the dining area. The provider shall assist the resident to use any adaptive equipment for eating if such equipment has been ordered by the resident's health care provider.

(c) The AFCH shall, at a minimum, maintain a telephone in the home which is available and accessible for the residents' use at all times and, to the extent practicable, situated so as to facilitate private communication.

(d) Pursuant to Section 400.0071, F.S., the procedures for lodging complaints with the long-term care ombudsman council must be posted in full-view in a common area accessible to all residents.

(3) BEDROOMS.

(a) Single bedrooms for residents shall provide at least 80 square feet of floor space for each resident. Multi-occupancy bedrooms shall provide at least 60 square feet of floor space per resident. Any area where a sloped ceiling does not allow a person to stand upright shall not be counted as part of the required floor space. Homes licensed for the first time after February 2, 1995, or already licensed homes who increase their maximum capacity after February 2, 1995, may not have more than two residents per room.

(b) Bedrooms for all residents shall be finished with walls or partitions which go from floor to ceilings and which have a door which opens directly to a hallway or common area without passage through another bedroom or common bathroom. Bedroom doors shall not have vision panels. Window drapes or shades shall be provided to ensure resident privacy.

(c) There shall be a separate bed at least 36 inches wide and 72 inches in length for each resident consisting of a mattress and frame at a comfortable height to assure easy access by the resident. Cots, rollaways, bunks, trundles, couches, and folding beds may not be used for residents.

(d) A household member may not sleep in areas designated as common areas, nor share a bedroom with a resident. Married residents shall be provided the option of sharing bedroom accommodations, but non-related residents of different genders shall not be required to share bedroom accommodations.

(e) In addition to closet space, each bedroom shall have separate and private storage space for each resident's clothing and personal effects. Residents shall be allowed to keep and use reasonable amounts of personal belongings, and shall be allowed to decorate their private quarters in an individual style provided such decor does not damage the provider's property.

(f) Bedrooms shall be on a ground level for residents who are non-ambulatory or have impaired mobility.

(4) BATHROOMS.

(a) A toilet and sink shall be provided on each floor with resident bedrooms. There shall be at least one toilet and sink for each 4 household occupants, and at least one tub or shower for each 6 household occupants. Household occupants include residents and household members, 2 years of age and older, who reside in the AFCH.

(b) Bathrooms shall have a finished interior, a mirror, and a door which insures privacy and opens to a hall or common area. Access to a bathroom may not be through another person's bedroom.

(c) Glass shower doors shall be tempered safety glass; shower curtains shall provide privacy. Non-slip floor surfaces shall be provided in tubs and showers. Residents shall have racks or hooks for drying bath linens and be provided a separate place for tooth brushes and towels.

(d) Bathrooms used by physically handicapped residents shall have grab bars for toilets, tubs, and showers. Hot water temperature shall be supervised for persons unable to self-regulate water temperature.

(e) If the home has a hot tub or spa, it shall have a safety cover when not in use.

(5) OUTDOOR AREAS. The AFCH shall have a yard available and accessible for use by residents.

*Specific Authority 429.67, 429.73 FS. Law Implemented 429.67, 429.73 FS. History—New 2-2-95, Formerly 10A-14.009, Amended 9-19-96, 3-25-98, 6-6-99.*

**58A-14.0091 Fire Safety Standards and Emergency Procedures.**

(1) FIRE SAFETY STANDARDS.

(a) Each adult family-care home shall be subject to the requirements of Rule Chapter 69A-57, Uniform Fire Safety Standards for Adult Family Care Homes, F.A.C.

(b) At the time of license application, prior to license renewal, and prior to an increase in capacity, the provider shall request the local authority having jurisdiction over fire safety to inspect the home for compliance with local codes and ordinances and the minimum standards of this rule. The inspection may be made by an employee of the agency who has a certification in fire safety, if the local fire authority indicates in writing that there is no inspector available to conduct an inspection. However, only the local fire authority shall give approval for multi-storied frame buildings.

(2) EMERGENCY PROCEDURES.

(a) The AFCH shall have a written plan which specifies emergency and evacuation procedures for fires and such natural disasters as hurricanes, floods, and tornadoes. The provider shall review the plan's emergency and evacuation procedures with the residents, the relief person, all staff, and all household members.

(b) The provider shall at all times maintain first aid and emergency supplies including a 3-day supply of non-perishable food based on the number of residents and household members currently residing in the home, and 2 gallons of drinking water per current resident and household member.

(c) Emergency telephone numbers shall be present by a designated telephone and include the following:

1. The emergency number 911;
2. Police;
3. Fire department;
4. Ambulance;

5. The Florida Poison Information Center 1(800)282-3171;
6. Abuse Hotline 1(800)962-2873;
7. District Long-Term Care Ombudsman Council;
8. AHCA's Field Office;
9. The Relief Person; and
10. Providers of essential medical services.

(d) In the event of a declared disaster or emergency, the AFCH provider shall make available all necessary information regarding a resident's location to essential medical services providers, both during and after the disaster or emergency.

*Specific Authority 429.67, 429.73 FS. Law Implemented 429.67, 429.73 FS. History—New 9-19-96, Amended 6-6-99, 7-30-06.*

#### **58A-14.010 Administrative Enforcement.**

##### **(1) GENERAL REQUIREMENTS.**

(a) The provider shall cooperate with agency personnel during surveys or inspections, complaint investigations, implementation of correction plans, license application and renewal procedures, and other activities necessary to ensure compliance with Part II of Chapter 429, F.S., and this rule chapter.

(b) In addition to agency personnel, reasonable access to enter and inspect a licensed AFCH must be provided to any designated agent of the department, the Department of Health, the local authority with jurisdiction over fire safety, the Department of Children and Family Services, and the Human Rights Advocacy Committee. Representatives of the district long-term care ombudsman council shall be provided reasonable access pursuant to the provisions of Section 400.0073, F.S.

##### **(2) INSPECTIONS.**

(a) The agency shall conduct a survey or inspection of an adult family-care home:

1. Prior to issuance of a license;
2. Prior to annual renewal of a license;
3. Upon receipt of an oral or written complaint of practices that threaten the health, safety, or welfare of residents;
4. At any time if the agency has reason to believe an AFCH has violated a provision of Part II of Chapter 429, F.S., or this rule chapter;
5. To determine if cited deficiencies or noticed violations have been corrected; and
6. To determine if an adult family care home is operating without a license.

(b) The inspection shall consist of full access to and examination of the home's physical premises, including the buildings, grounds, and equipment, and facility and resident records.

(c) Agency personnel may interview the provider, relief person, staff and residents. Interviews shall be conducted privately.

(d) Agency personnel shall respect the private possessions of residents, providers, household members, and staff while conducting the inspection.

(e) At the time of the inspection, the provider will be orally advised of any deficiencies found by agency personnel and a time frame established for correction of the violations. The time frame for the correction of violations starts from the date of the inspection. Cited deficiencies must be observed or otherwise substantiated by agency personnel. A written statement listing the deficiencies found, the rules or statutes violated, any corrections required, and time frames for correction shall be mailed to the AFCH by the agency within 10 working days after the date of inspection.

(f) For Class I violations that present an imminent danger to the health, safety or welfare of residents, the provider must correct the violation and abate the conditions no later than 24 hours and after agency inspection, unless a different time frame has been fixed by the agency as required by Section 429.71, F.S. The agency shall inspect the AFCH after the 24 hour period to determine if the violations have been corrected.

(g) For deficiencies found following an initial license or license renewal survey, a follow-up survey will be conducted to determine if the deficiencies have been corrected within the required time frame.

##### **(3) COMPLAINT INVESTIGATIONS.**

(a) The agency shall investigate any complaints regarding alleged practices in an AFCH that threaten the health, safety, or welfare of residents and shall notify the provider of the nature of the complaint, the results of the investigation, and any proposed action or sanction.

(b) If a complaint pertaining to the health, safety or welfare of residents is substantiated, the license of the provider shall be subject to agency actions or sanctions as provided in Part II of Chapter 429, F.S., and this rule.

(c) Pursuant to Section 429.85, F.S.:

1. The provider may not retaliate against any resident by increasing charges; decreasing services, rights or privileges; threatening to increase charges or decrease services, rights or privileges; by taking or threatening to take any action to coerce or compel the resident to leave the home or by harassing, abusing or threatening to harass or abuse a resident in any manner after the resident has filed a complaint with the agency or with the long-term care ombudsman council.

2. Any complainant, witness or staff shall not be subject to any retaliation, including restriction of access to the home or a resident, staff dismissal or harassment by a provider for filing a complaint or being interviewed about a complaint or being a witness.

(4) PLAN OF CORRECTION. For deficiencies found following a complaint investigation or other monitoring visit, the provider must provide a written plan of correction for each deficiency cited and a time frame for the correction of the deficiencies within the time frame discussed at the time of the complaint investigation or monitoring visit. The plan of correction must be returned no later than 10 working days after receipt of written notice.

(5) INFORMAL CONFERENCE. At any time after receipt of an oral or written notice of deficiencies, but prior to the expiration of the time frame for making corrections, the licensee or the agency may request a conference. The purpose of the conference is to discuss the deficiency and to provide information to the licensee or to the agency to assist the licensee in complying with the requirements of Part II of Chapter 429, F.S., and these rules. The request by a licensee or the agency for a conference does not extend any previously established time limit for correction.

(6) ADMINISTRATIVE SANCTIONS.

(a) If, after inspection the deficiencies have not been corrected within the time frame specified, or if the agency has not otherwise received sufficient evidence of compliance by the provider, the agency shall serve notice of administrative complaint upon the licensee in the manner provided under Chapter 120, F.S., and Part II of Chapter 59-1, F.A.C., and impose one or more administrative sanctions as provided under Sections 429.69 and 429.71, F.S.

(b) Notice of a license suspension or revocation shall be posted in the AFCH and visible to the public entering the home and residents.

(7) MORATORIUMS.

(a) Pursuant to Section 429.71, F.S., an immediate moratorium on admissions to an AFCH shall be placed on the home by the agency when it has determined that any condition or practice in the home presents a serious threat to the health, safety, or welfare of the residents.

(b) Following the imposition of the moratorium, the provider shall be provided with written confirmation of the placing of a moratorium by the agency, which notice shall be posted in the AFCH such that it is visible to the public entering the home, and shall:

1. Explain the reasons the moratorium was imposed;

2. Advise the provider how to arrange for an appraisal inspection by agency personnel to verify that corrections have been made;

3. Advise the provider of his/her right to request an administrative hearing pursuant to Section 120.57, F.S., and Part II of Chapter 59-1, F.A.C.

(c) While the moratorium is in effect, residents who have been temporarily discharged from the AFCH to a nursing home or hospital at the time the moratorium is imposed may not be re-admitted without agency approval.

(d) Moratoriums shall not be lifted until the violations have been corrected and the agency has been assured by an appraisal inspection that there is no longer any threat to the residents' health, safety, or welfare. The lifting of a moratorium will be confirmed by written notification.

*Specific Authority 429.67, 429.71, 429.73 FS. Law Implemented 429.67, 429.69, 429.71, 429.85 FS. History—New 2-2-95, Formerly 10A-14.010, Amended 9-19-96, 6-6-99.*