

Received 6/24
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CHARLIE CRIST
GOVERNOR

HOLLY BENSON
SECRETARY

NOTICE

June 18, 2008

Dear Assisted Living Facility Administrator:

The purpose of this notice is to clarify and reinforce assisted living facility Florida Statute (F.S.) and Florida Administrative Code (F.A.C.) regarding; appropriateness of placements, admission criteria and, grounds for violations and impositions of fines. Many assisted living facilities in Florida serve persons with disabilities or mental health needs. Situations have been identified when an ALF did not properly assess a resident prior to admission or did not appropriately assist in facilitating provision of services. It is important that all individuals, including those with developmental disabilities, meet admission criteria and receive necessary supports and services.

Prior to admission in an assisted living facility an individual with a developmental disability must be determined appropriate for admission and the licensee must facilitate appropriate provision of services. This typically involves coordinated interdisciplinary support plans with the Agency for Persons with Disabilities or the Department of Children and Families case manager or other authorized third party. Individuals with developmental disabilities receiving Medicaid waiver services through the Agency for Persons with Disabilities have support plans, facilitated by support coordinators, which identify necessary supports and services. Examples of such supports and services include supported employment, behavioral services, and physical therapy.

Chapter 429, F.S. contains specific language regarding each licensee's responsibilities for accepting only those individuals who can be appropriately cared for in their facility. Section 58A-5, F.A.C., specifies admission and appropriateness of placement requirements. The licensee must determine if they can meet the needs of each resident before admission.

Please note the following minimum assisted living facility statutory requirements:

429.26 Appropriateness of placements; examinations of residents.--

“ . . . (1) The owner or administrator of a facility is responsible for determining the appropriateness of admission of an individual to the facility and for determining the continued appropriateness of residence of an individual in the facility. A determination shall be based upon an assessment of the strengths, needs, and preferences of the resident, the care and services offered or arranged for by the facility in accordance with facility policy, and any limitations in law or rule related to admission criteria or continued residency for the type of license held by the facility under this part. A resident may not be moved from one facility to another without consultation with and agreement from the



resident or, if applicable, the resident's representative or designee or the resident's family, guardian, surrogate, or attorney in fact. In the case of a resident who has been placed by the department or the Department of Children and Family Services, the administrator must notify the appropriate contact person in the applicable department. . . .”

Please note the following minimum assisted living facility Florida Administrative Code requirements:

Residency Criteria and Admission Procedures, 58A-5.0181, F.A.C.:

“ . . . (1) ADMISSION CRITERIA. An individual must meet the following minimum criteria in order to be admitted to a facility holding a standard, limited nursing or limited mental health license:

(c) Be able to perform the activities of daily living, with supervision or assistance if necessary.

(e) Be capable of taking his/her own medication with assistance from staff if necessary.

(f) Any special dietary needs can be met by the facility.

(g) Not be a danger to self or others as determined by a physician, or mental health practitioner licensed under Chapters 490 or 491, F.S.

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

(i) Not be bedridden.

(j) Not have any stage 3 or 4 pressure sores. A resident requiring care of a stage 2 pressure sore may be admitted provided that:

1. The facility has a LNS license and services are provided pursuant to a plan of care issued by a physician, or the resident contracts directly with a licensed home health agency or a nurse to provide care;

2. The condition is documented in the resident’s record; and

3. If the resident’s condition fails to improve within 30 days, as documented by a licensed nurse or physician, the resident shall be discharged from the facility.

(k) Not require any of the following nursing services:

1. Oral, nasopharyngeal, or tracheotomy suctioning;

2. Assistance with tube feeding;

3. Monitoring of blood gases;

4. Intermittent positive pressure breathing therapy; or

5. Treatment of surgical incisions or wounds, unless the surgical incision or wound and the condition which caused it have been stabilized and a plan of care developed.

(l) Not require 24-hour nursing supervision.

(m) Not require skilled rehabilitative services as described in Rule 59G-4.290, F.A.C.

(n) Have been determined by the facility administrator to be appropriate for admission to the facility. The administrator shall base the decision on:

1. An assessment of the strengths, needs, and preferences of the individual, and the medical examination report required by Section 429.26, F.S., and subsection (2) of this rule;
2. The facility's admission policy, and the services the facility is prepared to provide or arrange for to meet resident needs; and
3. The ability of the facility to meet the uniform fire safety standards for assisted living facilities established under Section 429.41, F.S., and Rule Chapter 69A-40, F.A.C . . ."

The following violations are provided as a reminder of possible sanctions that may be imposed on a licensee for failure to comply with regulations, including:

- (1) Admission of individuals who do not meet admission criteria; and,
- (2) Failure to provide appropriate services for individuals meeting admission criteria:

429.19, Violations: imposition of administrative fines; grounds states the following:

“ . . . (2) Each violation of this part and adopted rules shall be classified according to the nature of the violation and the gravity of its probable effect on facility residents. The agency shall indicate the classification on the written notice of the violation as follows:

(a) Class "I" violations are those conditions or occurrences related to the operation and maintenance of a facility or to the personal care of residents which the agency determines present an imminent danger to the residents or guests of the facility or a substantial probability that death or serious physical or emotional harm would result therefrom. The condition or practice constituting a class I violation shall be abated or eliminated within 24 hours, unless a fixed period, as determined by the agency, is required for correction. The agency shall impose an administrative fine for a cited class I violation in an amount not less than \$5,000 and not exceeding \$10,000 for each violation. A fine may be levied notwithstanding the correction of the violation.

(b) Class "II" violations are those conditions or occurrences related to the operation and maintenance of a facility or to the personal care of residents which the agency determines directly threaten the physical or emotional health, safety, or security of the facility residents, other than class I violations. The agency shall impose an administrative fine for a cited class II violation in an amount not less than \$1,000 and not exceeding \$5,000 for each violation. A fine shall be levied notwithstanding the correction of the violation.

(c) Class "III" violations are those conditions or occurrences related to the operation and maintenance of a facility or to the personal care of residents which the agency determines indirectly or potentially threaten the physical or emotional health, safety, or security of facility residents, other than class I or class II violations. The agency shall impose an

administrative fine for a cited class III violation in an amount not less than \$500 and not exceeding \$1,000 for each violation. A citation for a class III violation must specify the time within which the violation is required to be corrected. If a class III violation is corrected within the time specified, no fine may be imposed, unless it is a repeated offense. . . ”

In addition to these regulations, the assisted living facility licensee must maintain compliance with all regulations in Chapter 408, Part II, F.S., Chapter 429, Part II and 58A-5, F.A.C. Failure to comply with licensure regulations may result in sanctions as authorized in law.

If you have any questions, please contact the Assisted Living Unit at (850) 487-2515.

Sincerely,

A handwritten signature in black ink, appearing to read "Alberta Granger". The signature is fluid and cursive, written over a light blue horizontal line.

Alberta Granger, Manager
Assisted Living Unit
Bureau of Long Term Care Services

cc: Field Office Managers 1 – 11
Agency for Persons with Disabilities-Central Office
Department of Children and Families-Central Office