

SECTION 434 ASSISTED LIVING FACILITIES

434.1 Scope.

Assisted living facilities shall comply with the following design and construction standards as described herein.

Note: Other administrative and programmatic provisions may apply. See Agency of Health Care Administration (AHCA) Rule 58A-5, *Florida Administrative Code* and Chapter 400 Part III, Florida Statutes.

434.2 Definitions.

AGENCY. The Agency for Health Care Administration.

ASSISTED LIVING FACILITY. Any building or buildings, section or distinct part of a building, private home, boarding home, home for the aged or other residential facility, whether operated for profit or not, which undertakes through its ownership or management to provide housing, meals and one or more personal services for a period exceeding 24 hours to one or more adults who are not relatives of the owner or administrator. The following are exempted from this definition:

1. Any facility, institution, or other place operated by the federal government or any agency of the federal government.
2. Any facility or part of a facility licensed under Chapter 393, Florida Statutes, or Chapter 394, Florida Statutes.
3. Any facility licensed as an adult family care home under Part VII Chapter 400, Florida Statutes.
4. Any person who provides housing, meals and one or more personal services on a 24-hour basis in the person's own home to not more than two adults who do not receive optional state supplementation. The person who provides the housing, meals, and personal services must own or rent the home and reside therein.
5. Any home or facility approved by the United States Department of Veterans Affairs as a residential care home wherein care is provided exclusively to three or fewer veterans.
6. Any facility that has been incorporated in this state for 50 years or more on or before July 1, 1983, and the board of directors of which is nominated or elected by the residents, until the facility is sold or its ownership is transferred; or any facility, with improvements or additions thereto, which has existed and operated continuously in this state for 60 years or more on or before July 1, 1989, is directly or indirectly owned and operated by a nationally recognized fraternal organization, is not open to the public, and accepts only its own members and their spouses as residents.
7. Any facility certified under Chapter 651, Florida Statutes, or a retirement community, may provide services authorized under this section or Part IV of Chapter 400, Florida Statutes to its residents who live in single-family homes, duplexes, quadruplexes, or apartments located on the campus without obtaining a license to operate an assisted living facility if residential units within such buildings are used by residents who do not require staff supervision for that portion of the day when personal services are not being delivered and the owner obtains a home health license to provide such services. However, any building or distinct part of a building on the campus that is designated for persons who receive personal services and require supervision beyond that which is available while such services are being rendered must be licensed in accordance with this section. If a facility provides personal services to residents who do not

otherwise home health agency, the buildings or distinct parts of buildings where such services are rendered must be licensed under this section. A resident of a facility that obtains a home health license may contract with a home health agency of his or her choice, provided that the home health agency provides liability insurance and workers' compensation coverage for its employees. Facilities covered by this exemption may establish policies that give residents the option of contracting for services and care beyond that which is provided by the facility to enable them to age in place. For purposes of this section, a retirement community consists of a facility licensed under this section or under Part II of Chapter 400, Florida Statutes, and apartments designed for independent living located on the same campus.

8. Any residential unit for independent living which is located within a facility certified under Chapter 651 Florida Statutes, or any residential unit which is colocated with a nursing home licensed under Part II of Chapter 400 Florida Statutes. or colocated with a facility licensed under this section in which services are provided through an outpatient clinic or a nursing home on an outpatient basis.

DEPARTMENT. The Department of Elderly Affairs.

EXTENDED CONGREGATE CARE. Acts beyond those authorized in subsection (5) that may be performed pursuant to part I of Chapter 464, Florida Statutes, by persons licensed thereunder while carrying out their professional duties. The purpose of such services is to enable residents to age in place in a residential environment despite mental or physical limitations that might otherwise disqualify them from residency in a facility licensed under this part.

PERSONAL SERVICES. Direct physical assistance with or supervision of the activities of daily living and the self-administration of medication and other similar services which the department may define by rule. Personal services shall not be construed to mean the provision of medical, nursing, dental or mental health services.

RELATIVE. An individual who is the father, mother, stepfather, stepmother, son, daughter, brother, sister, grandmother, grandfather, great-grandmother, great-grandfather, grandson, granddaughter, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepson, stepdaughter, stepbrother, stepsister, half brother or half sister of an owner or administrator.

RESIDENT. A person 18 years of age or older, residing in and receiving care from a facility.

RESIDENT'S REPRESENTATIVE OR DESIGNEE. A person other than the owner, or an agent or employee of the facility, designated in writing by the resident, if legally competent, to receive notice of changes in the contract executed pursuant to Section 400.424, F.S.; to receive notice of and to participate in meetings between the resident and the facility owner, administrator or staff concerning the rights of the resident; to assist the resident in contacting the ombudsman council if the resident has a complaint against the facility; or to bring legal action on behalf of the resident pursuant to Section 400.429, Florida Statutes.

AHCA CENTRAL OFFICE. The Assisted Living Unit, Agency for Health Care Administration.

CAPACITY. The number of residents for which a facility has been licensed to provide residential care.

DISTINCT PART. Designated bedrooms or apartments, bathrooms and a living area; or a separately identified wing, floor or building which includes bedrooms or apartments, bathrooms and a living area. The distinct part may include a separate dining area, or meals may be served in another part of the facility.

DOEA ASSISTED LIVING PROGRAM. The Assisted Living Program, Department of Elder Affairs.

FOOD SERVICE. The storage, preparation, serving and cleaning up of food intended for consumption in a facility or a formal agreement that meals will be regularly catered by a third party.

RENOVATION. Additions, repairs, restorations or other improvements to the physical plant of the facility within a five-year period that costs in excess of 50 percent of the value of the building as reported on the tax rolls, excluding land, before the renovation.

434.3 Physical plant standards.

434.3.1 General requirements.

434.3.1.1

The assisted living facilities (ALF) shall be located, designed, equipped and maintained to promote a residential, nonmedical environment, and provide for safe care.

434.3.1.2

The facility's physical structure, including the interior and exterior walls, floors, roof and ceilings shall be structurally sound and in good repair.

434.3.1.3

Indoor radon testing as mandated by Section 404.056(5), Florida Statutes, shall be completed by all facilities.

434.3.2 Heating and cooling.

434.3.2.1

When outside temperatures are 65°F (18°C) or below, an indoor temperature of at least 72°F (22°C) shall be maintained in all areas used by residents during hours when residents are normally awake. During night hours when residents are asleep, an indoor temperature of at least 68°F (20°C) shall be maintained.

434.3.2.2 }

During hours when residents are normally awake, mechanical cooling devices, such as electric fans, must be used in those areas of buildings used by residents when inside temperatures exceed 85°F (29°C) provided outside temperatures remain below 90°F (32°C). No residents shall be in any inside area that exceeds 90°F (32°C). However, during daytime hours when outside temperatures exceed 90°F (32°C), and at night, an indoor temperature of no more than 81°F (27°C) must be maintained in all areas used by residents.

434.3.2.3

Residents who have individually controlled thermostats in their bedrooms or apartments shall be permitted to control temperatures in those areas.

434.3.3 Common areas.

434.3.3.1

A minimum of 35 square feet (3 m²) of living and dining space per resident, live-in staff and

live-in family member shall be provided except in facilities comprised of apartments. This space shall include living, dining, recreational or other space designated accessible to all residents, and shall not include bathrooms, corridors, storage space or screened porches which cannot be adapted for year round use. Facilities with apartments may count the apartment's living space square footage as part of the 35 square footage (3 m²) living and dining space requirement.

Those facilities also serving as adult day care centers must provide an additional 35 square feet (3 m²) of living and dining space per adult day care client. Excess floor space in residents' bedrooms or apartments cannot be counted toward meeting the requirement of 35 square feet (3 m²) of living and dining space requirements for adult day care participants. Day care participants may not use residents' bedrooms for resting unless the room is currently vacant.

434.3.3.2

A room, separate from resident bedrooms, shall be provided where residents may read, engage in socialization or other leisure time activities. Comfortable chairs or sofas shall be provided in this communal area.

434.3.3.3

The dining area shall be furnished to accommodate communal dining.

434.3.4 Bedrooms.

434.3.4.1

Resident sleeping rooms designated for single occupancy shall provide a minimum inside measurement of 80 square feet of usable floor space. Usable floor space does not include closet space or bathrooms.

434.3.4.2

Resident bedrooms designated for multiple occupancy shall provide a minimum inside measurement of 60 square feet (6 m²) of usable floor space per room occupant.

434.3.4.3

Resident bedrooms designated for multiple occupancy in facilities newly licensed or renovated six months after October 17, 1999, shall have a maximum occupancy of two persons.

434.3.4.4

All resident bedrooms shall open directly into a corridor, common use area or to the outside. A resident must be able to exit his bedroom without having to pass through another bedroom unless the two rooms have been licensed as one bedroom.

434.3.4.5

All resident bedrooms shall be for the exclusive use of residents. Live-in staff and their family members shall be provided with sleeping space separate from the sleeping and congregate space required for residents.

434.3.5 Bathrooms.

434.3.5.1

There shall be at least one bathroom with one toilet and sink per six persons, and one bathtub or shower per eight persons. All residents, all live-in staff and family members, and respite care participants must be included when calculating the required number of toilets, sinks, bathtubs and showers. All adult day care participants shall be included when calculating the required number of toilets and sinks.

434.3.5.2

Each bathroom shall have a door in working order to assure privacy. The entry door to bathrooms with a single toilet shall have a lock which is operable from the inside by the resident with no key needed. A nonlocking door shall be permitted if the resident's safety would otherwise be jeopardized.

434.3.5.3

There shall be nonslip safety devices such as bath mats or peel off stickers in the showers and

bathtubs of all facilities. Showers and bathtubs with a nonskid surface require a separate nonskid device only if the surface is worn. Grab bars shall be required in showers and bathtubs. Grab bars, whether portable or permanent, must be securely affixed to the floor or adjoining walls. Facilities newly licensed or renovated six months after October 17, 1999 must have grab bars next to the commode.

434.3.5.4

Sole access to a toilet or bathtub or shower shall not be through another resident's bedroom, except in apartments within a facility.

434.3.6 Security.

External boundaries of a facility or a distinct part of a facility, including outside areas, may be secured using egress control or perimeter control devices if the following conditions are met.

434.3.6.1

The use of the device complies with all lifesafety requirements.

434.3.6.2

Residents residing within a secured area are able to move freely throughout the area, including the resident's bedroom or apartment, bathrooms and all common areas, and have access to outdoor areas on a regular basis and as requested by each resident.

434.3.6.3

Residents capable of entering and exiting without supervision have keys, codes or other mechanisms to exit the secured area without requiring staff assistance.

434.3.6.4

Staff who provide direct care or who have regular contact with residents residing in secured areas complete Level 1 Alzheimer's training as described in Rule 58A-5.0191.

434.3.6.5

Pursuant to Section 400.441, Florida Statutes, facilities with 16 or fewer residents shall not be required to maintain an accessible telephone in each building where residents reside, maintain written staff job descriptions, have awake night staff or maintain standardized recipes as provided in Rules 58A-5.0182(6)(g), 58A-5.019(2)(e), 58A-5.019(4)(a) and 58A-5.020(2)(b), respectively.

434.4 Extended congregate care.

434.4.1 Physical site requirements.

Each extended congregate care facility shall provide a homelike physical environment which promotes resident privacy and independence including:

434.4.1.1

A private room or apartment, or a semiprivate room or apartment shared with roommate of the resident's choice. The entry door to the room or apartment shall have a lock which is operable from the inside by the resident with no key needed. The resident shall be provided with a key to the entry door on request. The resident's service plan may allow for a nonlocking entry door if the resident's safety would otherwise be jeopardized.

434.4.1.2

A bathroom, with a toilet, sink and bathtub or shower, which is shared by a maximum of four residents. A centrally located hydromassage bathtub may substitute for the bathtub or shower in two of the bath rooms. The entry door to the bathroom shall have a lock which is operable from the inside by the resident with no key needed. The resident's service plan may allow for a nonlocking bathroom door if the resident's safety would otherwise be jeopardized.