

## Insights

# AHCA Rule Changes Go Into Effect Today for Senior Housing Operators

Gray Area of the Law Blog  
08.16.2021

*Courtesy of our friends at the Florida Senior Living Association:*

**Today, August 16, 2021,** AHCA's Final Adopted Version of Rules 59A-36.007 .008, & .028, F.A.C., which implement HB 767 (2020) are effective. These rules revolve around the topics of resident care standards (e.g., third-party services, assistive devices, physical restraints, and infection control procedures), medication practices, and ALF minimum core training curriculum requirements.

**What You Need To Know:** Changes to the three rules being amended include:

### **Rule 59A-36.007:** Resident Care Standards

#### Third-Party Services:

- Requires the ALF administrator or designee must ensure that: (1) care coordination includes documented communications about the resident's condition and response to treatment or services ordered by the physician which may impact the resident's appropriateness for continued residency in the ALF; (2) communications occur at least once every 30 days and whenever there is a significant change in the resident's condition; and (3) if physician ordered treatments or services occur less often than once a month, communications must be conducted according to the ordered treatment or service schedule and whenever there is a significant change in the resident's condition.
- Requires an ALF to document at least two attempts at communication on two separate days when communication to a third-party provider is unsuccessful.

#### Assistive Devices:

- Requires assistive devices to be added to an ALF's policies, rules and procedures, including the requirements and methods for assessing the physical condition of the assistive devices that may injure the resident

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and procedures for recommending repair or replacement for the continuing safety of a resident's assistive device.

- Requires ALFs to be responsible for ensuring the safe usage of a resident's assistive devices.
- Requires documentation of each assistive device a resident uses to be included in the resident's record.
- Requires direct care staff using assistive devices while rendering personal services to residents to know how to operate and utilize the equipment.
- Requires all assistive devices to be clean, in good repair, and free of hazards.
- Requires ALFs to encourage and allow the resident to function with independence when using the assistive device.

#### Physical Restraints:

- Residents for whom a physician has prescribed a physical restraint must have a written care plan for the use of the physical restraint. The care plan must be developed within 14 days of the device being prescribed, and prior to use on the resident.
- The care plan must specify: (1) the device prescribed for use; (2) the maximum amount of time the resident is to have the restraint applied or used in a 24-hour period; and (3) in what manner and frequency staff will monitor, observe, and report to the physician any injuries, increase in agitation, signs and symptoms of depression, or decline in mobility or function related to the use of the prescribed restraint.
- Requires ALF staff to ensure that the device is applied appropriately and safely.
- The resident's physician must review the appropriateness of the continued use of the physical restraint annually, and documentation of this review must be maintained in the resident's record. If the resident's ability to independently remove or avoid the device fluctuates, the device must be considered a physical restraint and all requirements of this subsection apply.

#### Infection Control Procedures:

- Requires ALFs to provide services in a manner that reduces the risk of transmission of infectious diseases.
- Requires ALFs to implement a hand hygiene program before and after the provision of personal services to residents whenever there is an expectation of possible exposure to infectious materials or bodily fluids. Hand hygiene may include the use of alcohol-based rubs, antiseptic handwash, or handwashing with soap and water.
- Requires standard precautions to be used when there is an anticipated exposure to transmissible infectious agents in blood, body fluids, secretions, excretions, nonintact skin, and mucous membranes during the provision of personal services. Standard precautions include: hand hygiene, and dependent upon the exposure, use of gloves, gown, mask, eye protection, or a face shield.
- Requires ALFs to clean and disinfect reusable medical equipment and communal assistive devices that have been designed for use by multiple residents before and after each use according to the manufacturer's recommendations.

#### **Rule 59A-36.008:** Medication Practices

- For assistance with self-administration of medication, replaces the current requirement to read the medical label aloud with updated language requiring orally advising the resident of the name and dosage of the

medication.

**Rule 59A-36.028:** ALF Minimum Core Training Curriculum Requirements

- Provides that AHCA may require the core trainer to submit a core training schedule and to conduct virtual monitoring.
- Provides that AHCA may cancel core registration and remove any ALF core training provider from the approved list who fails to:
  - Submit a core training schedule within 10 business days after the request;
  - Comply with corrective action plan issued by the AHCA within 45 calendar days after the notification;
  - Have a student passage rate at or above 55% as determined by AHCA's contracted vendor in the preceding calendar year;
  - Conduct an ALF core training session in the preceding calendar year; or
  - Submit at least 10 examinees' names to the AHCA's contracted ALF core training testing vendor in the preceding calendar year.

If you have questions regarding the AHCA rule changes or any other questions regarding your business, please contact one of the Senior Housing Group lawyers at Lowndes.