

Agency Review Pursuant to Section 120.74, F.S.

October 1, 2007 through September 30, 2009

I. Agency Identification and Correction of Deficiencies in Its Rules:

The following are the department's activities in this area:

Rule Number	Rule Title	Program	Action Taken
1. 58A-5.0131	Definitions	Assisted Living Facility	The definition of "Temporary License" is being deleted as it no longer applies to assisted living facilities. This action is currently in rule development.
2. 58A-5.016	License Requirements	Assisted Living Facility	Language is added to require facilities to identify Medicaid Waiver residents to inspectors and require that facilities assist residents, if necessary, to obtain third party services. This action is currently in rule development.
3. 58A-5.0181	Residency Criteria and Admissions Procedures	Assisted Living Facility	Language is added to require that residents be periodically assessed after admission for appropriateness of placement in the facility by means of a medical and psychosocial assessment. This action is currently in rule development.
4. 58A-5.0182	Resident Care Standards	Assisted Living Facility	Language is added regarding third party services received by residents. This action is currently in rule development.
5. 58A-5.0183	Do Not Resuscitate Orders (DNROs)	Assisted Living Facility	This is a new rule, which addresses the subject of DNROs, as required by Section 429.255, F.S. This action is currently in rule development.
6. 58A-5.0185	Medication Practices	Assisted Living Facility	Language is amended regarding over-the-counter medications to lower the cost for residents. This action is currently in rule development.
7. 58A-5.019	Staffing Standards	Assisted Living Facility	Language is added to require that facilities make work schedules for direct care staff available to residents and their representatives. This action is currently in rule development.
8. 58A-5.0191(9)(3)	Staff Training Requirements and Competency Test—HIV/Aids	Assisted Living Facility	Language is amended to comply with new directives pursuant to Section 456.033, F.S. This action is currently in rule development.
9. 58A-5.0191(9)(5)	Staff Training Requirements and Competency Test—DNROs	Assisted Living Facility	New language is added that specific staff must be trained in the facilities policies and procedures involving DNROs in accordance with the requirements of Rule 58A-5.0183, Do Not Resuscitate Orders (DNRO), F.A.C. This action is currently in rule development.
10. 58A-5.0191(9)	Staff Training Requirements and Competency Test—Limited Mental Health	Assisted Living Facility	Language is added to require that all direct care staff receive annual continuing education training in mental health diagnoses and issues in working with individuals with mental illness. This action is currently in the rule development.

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Agency Review Pursuant to Section 120.74, F.S.

October 1, 2007 through September 30, 2009

Rule Number	Rule Title	Program	Action Taken
11. 58A-5.023	Physical Plant Standards	Assisted Living Facility	Duplicate language is deleted that is included in Section 434 of the Florida Building Code, 2007 Edition; Chapter 633, F.S., Fire Prevention and Control; and Rule Chapter 69A-40, F.A.C. This action is currently in rule development.
12. 58A-5.025	Resident Contracts	Assisted Living Facility	Language is added to include, in all resident contracts, the provision of periodic reassessments to ensure the appropriateness of placement for residents; and procedures for self-administration, assistance with self-administration and administration of medications, including over-the-counter medications. This action is currently in rule development.
13. 58A-5.029	Limited Mental Health	Assisted Living Facility	Language is deleted regarding the responsibilities of the Department of Children and Families (DCF) in regards to facilities holding limited mental health licenses. The specific information is under the rulemaking authority of DCF, not the department. This action is currently in rule development.
14. 58A-5.033	Administrative Enforcement	Assisted Living Facility	Language is deleted regarding issuance of a temporary license (refer to line 1 above). This action is currently in rule development.
15. 58A-5.035	Waivers	Assisted Living Facility	The department modified language in this rule to be in concert with Section 120.542, F.S. The rule amendments were effective July 1, 2008.
16. 58A-14.002	Definitions	Adult Family-Care Homes	A new definition is added to require that an adult family-care home provider must physically reside in the home. This action is currently in rule development
17. 58A-14.003	License Application, Renewal and Conditional Licenses	Adult Family-Care Homes	New language is added to require that a provider provide proof of physically residing in the home as a condition of licensure. This action is currently in rule development.
18. 58A-14.004	License Requirements	Adult Family-Care Homes	New language is added to require that a provider post information for residents to lodge complaints regarding care and services. This action is currently in rule development.
19. 58A-14.0061	Admission Procedures, Appropriateness of Placement and Continued Residency	Adult Family-Care Homes	Language is added to require that residents be periodically assessed after admission for appropriateness of placement in the facility by means of a medical and psychosocial assessment. This action is currently in rule development.
20. 58A-14.008	Staff Qualifications, Responsibilities and Training	Adult Family-Care Homes	Language is re-written to clearly state the requirements for providing a statement that an individual is free from signs and symptoms of communicable diseases. This action is currently in rule development

Agency Review Pursuant to Section 120.74, F.S.
 October 1, 2007 through September 30, 2009

II. Agency Clarification and Simplification of Its Rules:

The following are the department's activities in this area:

	Rule Number	Rule Title	Program	Action Taken
1.	58A-2.027(1)(d)	Hospice Employee Training Requirements	Hospice	In reviewing the rules referenced in rows 1 through 5 in this section, the department became aware of different standards and requirements for Alzheimer's Disease and Related Disorders (ADRD) provider qualifications among the various facility types. The specific rules were adopted at different times and include different standards. The department's intent is to standardize the requirements for all ADRD rules, reducing the five provider application forms and five curriculum approval forms required in each rule into one provider application form and one curriculum approval form. When drafting language for rule development, the department further discovered discrepancies in the various statutes providing rulemaking authority. The department attempted to get a legislative "fix" to correct the discrepancies in the 2009 legislative session. However, the department was unsuccessful. The department has included this again in its legislative initiatives for the 2010 legislative session.
2.	58A-4.001(1)(d)	Nursing Home Employee Training Requirements	Nursing Homes	See explanation in # 1. above.
3.	58A-5.0191(9)(g)	Staff Training Requirements and Competency Test	Assisted Living Facility	See explanation in # 1. above.
4.	58A-6.015	Adult Day Care Center Employee Training Requirements	Adult Day Care	See explanation in # 1. above.
5.	58A-8.001(1)(c)	Alzheimer's Disease and Related Disorders (ADRD) Training Requirements	Home Health Agency	See explanation in # 1. above.
6.	Rule Chapter 58A-1	Administration of Federal Aging Programs	Federal Administration on Aging Programs	For the 2007 report, the department had drafted rule language to update, clarify and simplify the rules in this rule chapter. The changes have gone through the rulemaking process and were effective 9/24/09.
7.	Rule Chapter 58C-1	Community Care for the Elderly	Community Care for the Elderly Program	See explanation in # 6 above.

Agency Review Pursuant to Section 120.74, F.S.
 October 1, 2007 through September 30, 2009

	Rule Number	Rule Title	Program	Action Taken
8.	Rule Chapter 58D-1	Administration of the Alzheimer's Disease Initiative	Alzheimer's Disease Program	See explanation in # 6 above.
9.	Rule Chapter 58H-1	Home Care for the Elderly	Home Care for the Elderly Program	See explanation in # 6 above.
10.	Rule Chapter 58L-1	Long Term Care Ombudsman-Confidentiality	Ombudsman Program	In reviewing the rule chapters referenced in 10 through 12 in this section, the department has drafted rule language to merge each of the rule chapters involving the single program into one rule chapter, i.e., Chapter 58L-1. In addition, the department is rewriting and reorganizing the language in the rule for simplification and clarity. In 2007 report, the department reported that it was in the process of rulemaking to achieve this goal. Due to unforeseen obstacles, the department continues working towards this goal.
11.	Rule Chapter 58L-2	Long Term Care Ombudsman Conflict of Interest	Ombudsman Program	See explanation in # 10 above.
12.	Rule Chapter 58L-3	Long Term Care Ombudsman-Access	Ombudsman Program	See explanation in # 10 above.

III. Agency Deletion of Obsolete and Unnecessary Rules:

Please review comments on Rule Chapters 58A-1, 58C-1, 58D-1, and 58H-1, F.A.C., in the table in Section II above for the department's activities in this area.

IV. Agency Deletion of Rules that are Redundant of Statutes:

Please review comments for Rule 58A-5.023, F.A.C. in Section I, line 11.

V. Agency Actions Seeking to Improve Efficiency, Reduce Paperwork, or Decrease Costs to Government and the Private Sector:

See comments on Rules 58A-2.027(1)(d), 58A-4.001(1)(d), 58A-5.0191(9)(g), 58A-6.015, and 58A-8.001(1)(c), F.A.C., in the table in Section II for the department's efforts to improve efficiency, reduce paperwork and decrease costs to government and the private sector through implementing standardization among the rules involving Alzheimer's Disease and Related Disorders and combining 10 separate forms into two forms—one for provider enrollment and one for curriculum approval.

Agency Review Pursuant to Section 120.74, F.S.
October 1, 2007 through September 30, 2009

In addition, the department is in the process of improving efficiency, reducing paperwork and decreasing cost by combining the three separate rule chapters for the Ombudsman program into one rule chapter (see comments on Rule Chapters 58L-1, 58L-2, and 58L-3, F.A.C., in the table in Section II above).

VI. Agency Contact with Agencies that have Concurrent or Overlapping Jurisdiction to Determine Coordinated Approach to Promote Efficiency, Reduce Paperwork, or Decrease Costs to Government and the Private Sector:

As part of its rulemaking duties, the department consulted with the Agency for Health Care Administration (AHCA) in developing its rules. The following are the department's activities in this area:

Rule Number	Rule Title	Program	Action Taken
1. 58A-2.005	Administration of the Hospice	Hospices	The rule was amended with input from AHCA to include outcome measures and the adoption of national initiatives. Since the 2007 report, the rule has been adopted with an effective date of 8/11/08.
2. 58A-2.012	Program Reporting	Hospices	The rule was substantially re-written with input from AHCA. A new reporting form is incorporated by reference. Since the 2007 report, the rule has been through the rulemaking process with an effective date of 8/11/08.
3. 58T-1.201, 1.203, 1.205, 1.207, 1.209, 1.211 (Formerly reported under rules 58A-5.0192 & 58A-5.0193)	Training Requiring Provider and Curriculum Approvals (Assisted Living Facilities)	Assisted Living Facilities	For the 2007 report, language was in the rulemaking process under rules 58A-5.0192, Core Training Provider Requirements; and 58A-5.0193, Core Training Curriculum Requirements. These rules were not promulgated under Rule Chapter 58A-5, but under a new Rule Chapter 58T-1. These rules became effective 6/15/09.
Rule Chapter No.	Rule Chapter Title		
4. 58N-1	Long-Term Care Community Diversion Pilot Project	Nursing Home Diversion Program	For the 2007 report, the department was in the rulemaking phase of developing this rule chapter in consultation with AHCA. These rules become effective 4/29/08.

VII. Agency Recommendation of Statutory Changes that will Promote Efficiency, Reduce Paperwork, or Decrease Costs to Government and the Private Sector:

As in the 2007 report submitted by the department, we strongly recommend a change to Section 120.54(3)(a)3., F.S., which states "The notice shall be **mailed** (emphasis added) to all persons named in the proposed rule and to all persons who, at least 14 days prior to such mailing, have made requests of the agency for advance notice of its proceedings."

Agency Review Pursuant to Section 120.74, F.S.
October 1, 2007 through September 30, 2009

The Joint Administrative Procedures Committee has interpreted the language "mailed" to mean only by U.S. Mail. This is very costly to government. For example, over 2,000 Assisted Living Facilities (ALF) must be noticed. A proposed ALF rule and one notice of change would result in over 4,000 copies of documents that must be mailed. The department recommends that the statute be amended to permit electronic mail to be a legal method of notification. The Bureau of Administrative Code has already converted to electronic submission of documents for publication in the Florida Administrative Weekly. Such a change would promote efficiency, reduce paperwork and certainly decrease costs to the state.

VIII. Agency Summary Hearing Process:

The department does not have any cases that should be conducted under the summary hearing process described in s. 120.574, F.S., and would rarely agree to a process in which the agency did not render its own final order.

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