

APA-1
6/93

TRANSMITTAL SHEET FOR NOTICE OF INTENDED ACTION

Control 420 Department or Agency Alabama Department of Public Health

Rule Number 420-5-4-.04

Rule Title Personnel and Training

 New XXX Amend Repeal Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare or safety? Yes

Is there a reasonable relationship between the state's police power and the protection of the public health, safety or welfare? Yes

Is there another, less restrictive method of regulation available that could adequately protect the public? No

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? No

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? NA

Are all facts of the rulemaking process designed solely for the purpose of and so they have as their primary effect, the protection of the public? Yes

Does the proposed rule have an economic impact? No

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of §41-22-23, Code of Alabama, 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama, 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Reference Service.

Signature of Certifying Officer  Date 5/20/15

FORM APA2
11/96

**STATE BOARD OF HEALTH
NOTICE OF INTENDED ACTION**

AGENCY NAME: Alabama Department of Public Health

RULE NUMBER AND TITLE: 420-5-4-.04 Personnel and Training

INTENDED ACTION: To Amend

SUBSTANCE OF PROPOSED ACTION: To correct a misstatement referring to "specialty care" assisted living facilities, and to eliminate redundant word usage.

TIME, PLACE, AND MANNER OF PRESENTING VIEWS: A public hearing will be held at 9:00 a.m. on June 16, 2015, at the Alabama Department of Public Health, RSA Tower, Suite 1540, 201 Monroe St., Montgomery, AL 36104.

FINAL DATE FOR COMMENTS AND COMPLETION OF NOTICE: Written or oral comments will be received until the close of the record at 5:00 p.m. on July 3, 2015. All comments and requests for copies of the proposed amendments should be addressed to the contact person listed below.

CONTACT PERSON AT AGENCY: Ray Sherer, Division of Provider Services, Department of Public Health, P.O. Box 303017, Montgomery, Alabama 36130-3017.
Telephone number: (334) 206-5175.



P. Brian Hale, Agency Secretary

Personnel And Training.

(1) General. An assisted living facility shall employ sufficient staff and ensure sufficient staff are on duty to meet the care needs of all residents twenty-four hours a day, seven days a week. This means that an assisted living facility must not only have a sufficiently large number of staff members to meet the care needs of all residents, it must also manage and direct the activities of staff members in a manner that results in adequate care being provided. An assisted living facility shall likewise employ sufficient staff, ensure sufficient staff are on duty, and manage and direct staff activities in a manner that results in maintenance of a neat, clean, orderly, and safe environment at all times.

(a) Employee Screening.

1. Prior to any resident contact, newly employed personnel shall have a physical examination certifying that the employee is free of signs and symptoms of infectious skin lesions and diseases that are capable of transmission to residents through normal staff to resident contact.

2. Prior to any resident contact, newly employed personnel shall be properly evaluated for tuberculosis.

3. Vaccines. Assisted living facilities shall immunize employees in accordance with current recommended CDC guidelines. Any particular vaccination requirement may be waived or delayed by the State Health Officer in the event of a vaccine shortage.

4. Employees who develop signs or symptoms of infectious skin lesions or diseases that would be capable of transmission to residents through normal staff to resident contact shall not be permitted to have resident contact until free from such signs and symptoms.

(b) An assisted living facility shall not hire an individual whose name is on the Alabama Department of Public Health Nurse Aide Abuse Registry.

(c) Personnel Records. An assisted living facility shall maintain a personnel record for each employee. This record shall contain:

1. An application for employment which contains information regarding the employee's education, training, experience, date of hire, and, if applicable, registration and licensure.

2. Record of required physical examinations and

vaccinations.

3. Date employment ceased.

(d) Employee Schedule. An assisted living facility shall post a schedule of employees indicating names and days and hours scheduled to work. This schedule shall be retained in the facility for three weeks after use.

(2) No member of the assisted living facility governing authority, and no employee of an assisted living facility, including the administrator, shall serve as legal guardian, as conservator, or as attorney-in-fact for any resident of the facility, nor shall any such individual solicit or accept control over the property of any resident, such as by becoming authorized to sign checks for the resident, or by becoming authorized to enter a resident's safe deposit box, or by having authority to control real property or securities owned by the resident. No member of the assisted living facility governing authority, and no employee of an assisted living facility, including the administrator, shall accept gifts, cash, or any item of value from a resident of the assisted living facility other than what the resident is obligated to pay the facility for services rendered, as specified in the resident's financial agreement with the facility. Provided, however, that assisted living facility residents, sponsors, and family members may offer, and employees may accept, gifts whose value does not exceed \$25.00, on appropriate occasions such as holidays or birthdays if the gift is offered freely and voluntarily. In the case of a gift from a resident, the resident must have sufficient cognitive ability to knowingly, freely, and voluntarily offer a gift. Provided further, that none of these prohibitions shall apply between a resident and any member of the governing authority or employee if the two individuals are related to one another as defined in section 420-5-4-.01(b). Notwithstanding the foregoing, individuals appointed before October 5, 2001 as legal guardians for ~~specialty care~~ assisted living facility residents may continue to serve. This subsection is not intended to prevent ~~specialty care~~ assisted living facilities from offering to place resident funds in an escrow or trust account for the benefit of the resident whose funds are deposited, so long as exclusive decision-making authority for fund disbursement is vested in the resident or responsible family member, and so long as disposition of escrowed funds are periodically reported to the resident or family member as appropriate. This subsection is also not intended to prohibit facilities from accepting memorial gifts in any amount from family members of deceased relatives, nor is it intended to prohibit facilities from accepting testamentary bequests in any amount from the estates of deceased residents.

(3) The Administrator.

(a) Responsibility.

1. The administrator shall be a direct representative of the governing authority in the management of the assisted living facility and shall be responsible to the governing authority for the proper performance of his or her duties. Any individual employed as an administrator shall meet all applicable statutory requirements.

2. There must be an individual authorized in writing to act for the administrator during absences.

3. The administrator shall ensure that residents who have health or safety needs beyond the capability of the facility will be safely transferred or discharged to an appropriate setting.

4. The administrator shall ensure that facility staff members observe each resident for changes in health and physical abilities and obtain appropriate medical attention when needed.

5. The administrator shall ensure that plans of care for all residents are current and appropriate. This shall include the prearranged discharge plan.

6. The administrator shall ensure that all deficient practices cited by the Department of ~~Public Health~~ are corrected in a timely manner.

(b) The administrator and any individual authorized to act as a substitute shall be at least nineteen years of age.

(c) The administrator and any individual authorized to act as a substitute shall be of reputable and responsible character.

(4) Training.

(a) Continuing Education. An assisted living facility administrator shall have at least six hours of continuing education each year. Currently licensed nursing home administrators are exempt from this requirement.

(b) All staff who have contact with residents, including the administrator, shall have initial training and refresher training, as necessary. The following subject matter areas shall be covered:

1. State law and rules on assisted living facilities.
2. Identifying and reporting abuse, neglect and exploitation.

3. Special needs of the elderly, mentally ill, and mentally retarded.

4. Basic first aid.

5. Advance Directives.

6. Protecting resident confidentiality.

7. Safety and nutritional needs of the elderly.

8. Resident fire and environmental safety.

9. Identifying signs and symptoms of dementia.

(c) An assisted living facility shall be staffed at all times by at least one individual who has a current certification from the American Heart Association or the American Red Cross in cardiopulmonary resuscitation (CPR). An assisted living facility equipped with an automated external defibrillator (AED) shall be staffed at all times by at least one individual who has a current certification from the American Heart Association or the American Red Cross in AED utilization. Substitute training approved by the Department of ~~Public Health~~ as acceptable for EMS personnel may be utilized in lieu of those courses or certifications offered by the American Heart Association or American Red Cross in CPR or AED utilization.

(d) Documentation. Documentation of all staff training to include attendance records shall be maintained.

(e) Administrator Accountability. The facility administrator is responsible for ensuring that required training is provided to all members of the facility staff.

Author: Rick Harris

Statutory Authority: Code of Ala. 1975, §§22-21-20, et seq.

History: Filed November 20, 1991. **Repealed and New Rule:** Filed October 18, 2001; effective November 22, 2001. **Amended:** Filed March 21, 2007; effective April 25, 2007..