

ADMINISTRATIVE PENALTIES

429.14, F.S.

(1) In addition to the requirements of part II of chapter 408, the agency may deny, revoke, and suspend any license issued under this part and impose an administrative fine in the manner provided in chapter 120 against a licensee for a violation of any provision of this part, part II of chapter 408, or applicable rules, or for any of the following actions by a licensee, for the actions of any person subject to level 2 background screening under s. 408.809, or for the actions of any facility employee:

(a) An intentional or negligent act seriously affecting the health, safety, or welfare of a resident of the facility.

(b) The determination by the agency that the owner lacks the financial ability to provide continuing adequate care to residents.

(c) Misappropriation or conversion of the property of a resident of the facility.

(d) Failure to follow the criteria and procedures provided under part I of chapter 394 relating to the transportation, voluntary admission, and involuntary examination of a facility resident.

(e) A citation of any of the following deficiencies as specified in s. 429.19:

1. One or more cited class I deficiencies.

2. Three or more cited class II deficiencies.

3. Five or more cited class III deficiencies that have been cited on a single survey and have not been corrected within the times specified.

(f) Failure to comply with the background screening standards of this part, s. 408.809(1), or chapter 435.

(g) Violation of a moratorium.

(h) Failure of the license applicant, the licensee during relicensure, or a licensee that holds a provisional license to meet the minimum license requirements of this part, or related rules, at the time of license application or renewal.

(i) An intentional or negligent life-threatening act in violation of the uniform firesafety standards for assisted living facilities or other firesafety standards that threatens the health, safety, or welfare of a resident of a facility, as communicated to the agency by the local authority having jurisdiction or the State Fire Marshal.

(j) Knowingly operating any unlicensed facility or providing without a license any service that must be licensed under this chapter or chapter 400.

(k) Any act constituting a ground upon which application for a license may be denied.

(2) Upon notification by the local authority having jurisdiction or by the State Fire Marshal, the agency may deny or revoke the license of an assisted living facility that fails to correct cited fire code violations that affect or threaten the health, safety, or welfare of a resident of a facility.

(3) The agency may deny a license to any applicant or controlling interest as defined in part II of chapter 408 which has or had a 25-percent or greater financial or ownership interest in any other facility licensed under this part, or in any entity licensed by this state or another state to provide health or residential care, which facility or entity during the 5 years prior to the application for a license closed due to financial inability to operate; had a receiver appointed or a

license denied, suspended, or revoked; was subject to a moratorium; or had an injunctive proceeding initiated against it.

(4) The agency shall deny or revoke the license of an assisted living facility that has two or more class I violations that are similar or identical to violations identified by the agency during a survey, inspection, monitoring visit, or complaint investigation occurring within the previous 2 years.

(5) An action taken by the agency to suspend, deny, or revoke a facility's license under this part or part II of chapter 408, in which the agency claims that the facility owner or an employee of the facility has threatened the health, safety, or welfare of a resident of the facility be heard by the Division of Administrative Hearings of the Department of Management Services within 120 days after receipt of the facility's request for a hearing, unless that time limitation is waived by both parties. The administrative law judge must render a decision within 30 days after receipt of a proposed recommended order.

(6) The agency shall provide to the Division of Hotels and Restaurants of the Department of Business and Professional Regulation, on a monthly basis, a list of those assisted living facilities that have had their licenses denied, suspended, or revoked or that are involved in an appellate proceeding pursuant to s. 120.60 related to the denial, suspension, or revocation of a license.

(7) Agency notification of a license suspension or revocation, or denial of a license renewal, shall be posted and visible to the public at the facility.

429.19(5), F.S.

Any action taken to correct a violation shall be documented in writing by the owner or administrator of the facility and verified through follow-up visits by agency personnel. The agency may impose a fine and, in the case of an owner-operated facility, revoke or deny a facility's license when a facility administrator fraudulently misrepresents action taken to correct a violation.

429.20(2), F.S.

Solicitation of contributions of any kind in a threatening, coercive, or unduly forceful manner by or on behalf of an assisted living facility or facilities by any agent, employee, owner, or representative of any assisted living facility or facilities is grounds for denial, suspension, or revocation of the license of the assisted living facility or facilities by or on behalf of which such contributions were solicited.

429.20(3), F.S.

The admission or maintenance of assisted living facility residents whose care is supported, in whole or in part, by state funds may not be conditioned upon the receipt of any manner of contribution or donation from any person. The solicitation or receipt of contributions in violation of this subsection is grounds for denial, suspension, or revocation of license, as provided in s. 429.14, for any assisted living facility by or on behalf of which such contributions were solicited.

429.69, F.S.

In addition to the requirements of part II of chapter 408, the agency may deny, suspend, and revoke a license for any of the following reasons:

- (1) Failure to comply with the background screening standards of this part, s. 408.809(1), or chapter 435.
- (2) Failure to correct cited fire code violations that threaten the health, safety, or welfare of residents.

408.815, F.S.

(1) In addition to the grounds provided in authorizing statutes, grounds that may be used by the agency for denying and revoking a license or change of ownership application include any of the following actions by a controlling interest:

- (a) False representation of a material fact in the license application or omission of any material fact from the application.
- (b) An intentional or negligent act materially affecting the health or safety of a client of the provider.
- (c) A violation of this part, authorizing statutes, or applicable rules.
- (d) A demonstrated pattern of deficient performance.
- (e) The applicant, licensee, or controlling interest has been or is currently excluded, suspended, or terminated from participation in the state Medicaid program, the Medicaid program of any other state, or the Medicare program.

(2) If a licensee lawfully continues to operate while a denial or revocation is pending in litigation, the licensee must continue to meet all other requirements of this part, authorizing statutes, and applicable rules and file subsequent renewal applications for licensure and pay all licensure fees. The provisions of ss. 120.60(1) and 408.806(3)(c) do not apply to renewal applications filed during the time period in which the litigation of the denial or revocation is pending until that litigation is final.

(3) An action under s. 408.814 or denial of the license of the transferor may be grounds for denial of a change of ownership application of the transferee.

(4) Unless an applicant is determined by the agency to satisfy the provisions of subsection (5) for the action in question, the agency shall deny an application for a license or license renewal based upon any of the following actions of an applicant, a controlling interest of the applicant, or any entity in which a controlling interest of the applicant was an owner or officer when the following actions occurred:

- (a) A conviction or a plea of guilty or nolo contendere to, regardless of adjudication, a felony under chapter 409, chapter 817, chapter 893, 21 U.S.C. ss. 801-970, or 42 U.S.C. ss. 1395-1396, Medicaid fraud, Medicare fraud, or insurance fraud, unless the sentence and any subsequent period of probation for such convictions or plea ended more than 15 years before the date of the application; or
- (b) Termination for cause from the Medicare program or a state Medicaid program, unless the applicant has been in good standing with the Medicare program or a state Medicaid program for the most recent 5 years and the termination occurred at least 20 years before the date of the application.

58A-5.0186(2), F.A.C.

An ALF shall be subject to revocation of its license pursuant to Section 408.815, F.S., if, as a condition of treatment or admission, it requires an individual to execute or waive a DNRO.

58A-5.019(4)(d), F.A.C.

The facility shall be required to provide staff immediately when the Agency determines that the requirements of paragraph (a) are not met. The facility shall also be required to immediately increase staff above the minimum levels established in paragraph (a) if the Agency determines that adequate supervision and care are not being provided to residents, resident care standards described in Rule 58A-5.0182, F.A.C., are not being met, or that the facility is failing to meet the terms of residents' contracts. The Agency shall consult with the facility administrator and residents regarding any determination that additional staff is required.

58A-5.033(4)(a)(1), F.A.C

If a Class I, Class II, or uncorrected Class III deficiency directly relating to facility medication practices as established in Rule 58A-5.0185, F.A.C., is documented by agency personnel pursuant to an inspection of the facility, the agency shall notify the facility in writing that the facility must employ, on staff or by contract, the services of a pharmacist licensed pursuant to Section 465.0125, F.S., or registered nurse, as determined by the agency.