

Notice of Change/Withdrawal

DEPARTMENT OF CHILDREN AND FAMILIES

Agency for Persons with Disabilities

RULE NOS.:RULE TITLES:

65G-2.004 License Violations

65G-2.0041 License Violations - Disciplinary Actions

65G-2.0074 Adult Day Training Program Standards

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 50 No. 188, September 25, 2024 issue of the Florida Administrative Register.

65G-2.004 License Violations.

(1) Notice of ~~N~~oncompliance. The Agency shall issue a ~~N~~notice of ~~N~~oncompliance. as provided under Section 120.695, F.S., in response to the first occurrence of a Class II or III violation that is not corrected prior to the completion of the on-site monitoring being monitored which identified ~~revealed~~ the aforementioned violation. Within 15 days following receipt of a Notice of Noncompliance, the licensee must submit a written Corrective Action Plan, to the regional office. Failure to submit a Corrective Action Plan within the required timeframe or repeat occurrences of Class II or III violations shall result in the imposition of disciplinary action as described in paragraph 65G-2.0041(4)(b) or (c), F.A.C. For the purposes of this subsection, a first occurrence of a Class II or III violation refers to those violations which have not been previously observed and cited by Agency staff within the past 12 months.

(2) Corrective Action Plan. The licensee must develop and submit to the Agency a Corrective Action Plan within 15 days following the receipt of a Notice of Noncompliance. The Corrective Action Plan shall specify the actions the facility or program will take to correct each of the violations identified and to comply with the applicable licensing requirements, the name of the staff person(s) responsible for completing each action, and a timeframe for accomplishing each action. All action taken to correct a violation shall be documented in writing by the licensee. Failure to comply with the Corrective Action Plan shall result in the imposition of disciplinary action as described in paragraph 65G-2.0041(4)(b) or (c), F.A.C. The Agency shall reject any Corrective Action Plan that fails to identify all of the information described above. If the Agency rejects a Corrective Action Plan, the Agency shall notify the licensee in writing of the reasons for rejection and shall state that the licensee has 10 days from receipt of the notification to submit an amended Corrective Action Plan.

(3) and (4) No change.

Rulemaking Authority 393.067, 393.0673, 393.501 FS. Laws Implemented 393.067, 393.0673, FS. History–New 7-1-14, Amended _____.

65G-2.0041 License Violations – Disciplinary Actions.

(1) through (3) No change.

(4) Sanctions. Fines shall be imposed, pursuant to a final order of the Agency, according to the following three-tiered classification system for the violation of facility standards as provided by law or administrative rule. Each day a violation occurs or continues to occur constitutes a separate violation and is subject to a separate and additional sanction. Violations shall be classified according to the following criteria:

(a) through (b) No change.

(c) Class III violations are statutory or rule violations related to the operation and maintenance of the facility or to the personal care of residents, other than Class I or Class II violations.

1. No change.

2. A repeat Class III violation previously cited in a notice of noncompliance may incur a fine even if the violation is corrected before the Agency completes its monitoring ~~monotoring~~ of the facility or program.

3. No change.

(d) No change.

65G-2.0074 Adult Day Training Program Standards.

(1) through (3) No change.

(4) Food preparation, storage, and service.

(a) through (o) No change.

(p) If the program is required to be inspected for food preparation or handling by another state or local governmental agency, such program will be in compliance with this subsection upon a showing of a current, valid, satisfactory inspection from that other state or local governmental agency. Failure to have such an inspection, or evidence thereof, shall be grounds for discipline in accordance with Rule 65G-2.0041, F.A.C. Any stop sale or emergency action taken by the inspecting entity regarding the inspection may be grounds for discipline in accordance with Rule 65G-2.0041, F.A.C., unless such stop sale or emergency action is later found to be invalid.

(5) through (15) No change.

(16) Insect, Rodent, and Vermin Control.

(a) Measures shall be utilized to minimize the presence of rodents, flies, cockroaches, bedbugs, lice, and other insects on the premises, which include maintaining a clean environment in the physical site. This shall include, but not be limited to the use of a licensed pest control operator.

(b) through (c) No change.

(d) For persistent pest control problems, a licensed pest control operator must be used to address the persistent pest control problem.

(e) Violations of paragraphs (a) ~~through~~ ~~though~~ (d) shall constitute a Class I or Class II violation in accordance with Rule 65G-2.0041, F.A.C.

(17) through (19) No change.

(20) Optional in-service training.

(a) The licensee may develop optional in-service training for family members, guardians, or guardian advocates of participants. This training may include but is not limited to parent and caregiver training address topics such as appropriate behavioral interventions, guardianship, social security benefit issues, or other topics of relevance. ~~The program shall not require such training as a condition upon the provision of adult day training services. Under no circumstances may the licensee, or its contracted trainer or presenter, charge a participant a fee for the provision of such training.~~

(b) No change.

(21) Emergency Management Plans.

(a) through (b) No change.

(c) Emergency Management Plan Implementation. In the event of an internal or external disaster, the program shall implement the emergency management plan in accordance with sections 252.355 and 252.356, F.S.

1. through 2. No change.

3. If telephone service is not available during an emergency, the program shall notify the Agency, and also request assistance, by appropriate means, for restoration of communications from local law enforcement or emergency management personnel in maintaining communication.

(22) through (23) No change.

(24) Administration.

(a) through (b) No change.

(c) The Program director shall possess at a minimum an associate's degree from an accredited college or university, and two years of verifiable experience working directly with individuals receiving services or related experience. Related experience will substitute on a year-for-year basis for the required college education.

(d) The licensee must designate a staff member to serve as the back-up Program director when the Program director is unavailable. The designee shall meet the same qualifications as the Program director. ~~Related experience will substitute on a year for year basis for the required college education.~~

(e) through (g) No change.

(25) Financial Standards

(a) through (b) No change.

(c) If a program receives funds for developmental training programs, sufficient documentation evidencing a ~~evidence of~~ 12.5% match of the Individual and Family Supports and iBudget Waiver funds from the General Appropriations Act from local sources ~~of in-kind services~~ must be provided upon request by the Agency. In-kind match is acceptable provided there are no reductions in the number of persons served or the level of services provided.

(d) The Agency may audit the records of a program to ensure compliance with Chapter 65G-2, F.A.C., and Chapter 393, F.S., provided that financial audits shall be limited to the records of the Agency's clients. Failure to maintain records shall constitute a Class III violation. Failure to allow ~~at~~ the Agency access to records for an audit shall constitute a Class II violation.

(e) Upon request by the Agency, the program shall make available copies of any internal or external audit reports pertaining to funding received on behalf of the Agency's clients. Failure to allow ~~at~~ the Agency access to client record shall constitute a Class II violation.

(f) No change.

(26) through (33) No change.

(34) Sexual Activity and Physical Contact.

(a) The licensee shall develop and enforce a written policy regarding sexual activity involving participants of the program. Violations of this paragraph shall constitute a Class II violation. If a violation of this paragraph results in, or poses a serious immediate threat of, death or serious harm to the health, safety or welfare of a resident to a participant, the violation shall constitute a Class I violation, instead. Such policy shall:

1. and 2. No change.

3. require staff to report sexual activity involving participants under the age of eighteen to Department of Children and Families, and law enforcement;

(b) no change.

(c) The following safeguards shall be implemented in any program that serves one or more sexually aggressive participants, or those who require a Safety Plan under the iBudget Handbook, chapter 65G-2, or any other similar requirement:

1. through 2. No change.

3. The program must maintain a signed copy of the most current safety plan, when applicable. The prospective participant, if legally competent, or his or her legal representative must sign and agree to the Safety Plan. The Safety Plan shall be reviewed and updated as needed, at least once a year.

4. through 8. No change.

(35) No change.

*Rulemaking Authority, 393.067, 393.0673, 393.501 F.S. Law Implemented 393.067, 393.0673, 393.13, F.S. History–
New_____.*