

Florida Power Rule: Discrepancies Between Reported and Actual Compliance

BACKGROUND

The state of Florida requires all long-term care facilities, including assisted living communities (ALCs), to have an emergency environmental control plan, specifically for use during disasters when power may be interrupted. These plans are monitored, maintained, and approved through the Agency for Health Care Administration (AHCA). According to the Florida Administrative Code (F.A.C.) 59A-36.025, these plans must follow specific criteria that would enable ALCs to function in the case of an emergency causing a loss of power.¹ These criteria include the declaration of primary and alternative power sources, detailed listings of specific areas within the community that will receive the primary attention of energy sources (i.e. receiving cooling to maintain safe temperatures), and the accessibility of these plans to residents and legal entities. The goal of this brief is to closely examine the ALC data about their disaster preparedness plans, which are mandated to be reported to AHCA per F.A.C. 59A-36.025.¹

STUDY METHOD

Data about Florida's ALCs was collected from AHCA.* For our analyses, we used the data concerning plan implementation, as well as the areas receiving cooling (i.e. entire facility or specific area within the facility), square footage of the areas to be cooled, and the number of licensed beds per facility. F.A.C. 59A-36.025 states that each facility must have the ability to cool 20 square feet per resident, based on 80% occupancy of its

licensed beds. We therefore created a variable for each ALC that represented the product of the number of square feet to be cooled divided by 80% of the reported licensed beds. Our analysis also included ALCs that reported cooling only a specific area and reported a plan implementation date, but had missing data about the square footage of the area to be cooled. The specific area to be cooled was also examined.²

FINDINGS

Of the 3,090 ALCs in Florida, 102 (3.30%) did not have an implemented emergency environmental control plan. Of those that did have an implemented plan, 1,969 (65.9%) reported they did not plan to cool the entire building. For those cooling only a specific area of the building, 552 (18.5%) failed to report the specific square footage to be cooled. Of these, 180 (32.6%) ALCs did not provide information about what specific areas were to be cooled.

There were 23 ALCs in our data that reported their plans for environmental emergencies had been approved even though the plans did not appear to meet the current mandatory regulations. Of these ALCs, 7 report a cooled area of between 19 and 19.9 square feet per resident. The 16 other facilities reported square footage below 19, with some reporting data suggesting they offered only between 2.31 and 9.85 square feet of cooled space per resident. Five (21.7%) of these ALCs did not report a plan implementation date. The ALCs with data suggesting they did not meet the current

*Data was collected on February 6, 2020

requirements were larger in size, with all but one facility having more than 50 beds. Additionally, 21 (91.3%) were for-profit, 14 (60.9%) reported offering memory care services, and all were within an urban county.

POLICY IMPLICATIONS

Overall, a large percentage of ALCs in Florida have successfully implemented an emergency environmental control plan. However there appear to be discrepancies between what is reported to AHCA and what is required by law. In addition, there are a number of ALCs whose plans do not meet all the requirements of the emergency power rule. We suggest that AHCA confirms the ALCs' reported plans are within the regulation. This would allow the public to confirm an ALC's ability to care for their family members

when power is lost during an environmental emergency.

REFERENCES

1. Emergency Environmental Control for Assisted Living Facilities, Fl. Admin. Code § 59A-36.025 (2019).
2. Florida Department of Health (2019). *Community Health Assessment Resource Tool Set*. Retrieved from: <http://www.flhealthcharts.com/charts/default.aspx>

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