

Legal Principles

Hearsay Evidence

- A statement, other than one made by the declarant while testifying at the trial or hearing offered in evidence to prove the truth of the matter asserted.
- Normally hearsay is inadmissible but there are a lot of exceptions.

CLEAR & CONVINCING EVIDENCE

Required for Nursing Home Fines

Requires that the evidence must be found to be credible; the facts to which the witnesses testify must be distinctly remembered; the testimony must be precise and explicit and the witnesses must be lacking in confusion as to facts in issue. The evidence must be of such weight that it produces in the mind of the trier of fact a firm belief or conviction, without hesitancy, as to the truth of the allegations sought to be established.

CLASS I DEFICIENCY

Nursing Home

Presents a situation in which immediate corrective action is necessary because the facility's noncompliance has caused, or is likely to cause, serious injury, harm, impairment, or death to a resident receiving care in a facility. The condition or practice constituting a class I violation shall be abated or eliminated immediately, unless a fixed period of time, as determined by the agency, is required for correction. 400.23(8)(a) Florida Statutes.

PREPARE TO BE SPECIFIC ABOUT THIS

CLASS II DEFICIENCY

Nursing Home

Has compromised the resident's ability to maintain or reach his or her highest practicable physical, mental, and psychosocial well-being, as defined by an accurate and comprehensive resident assessment, plan of care, and provision of services.

PREPARE TO BE SPECIFIC ABOUT THIS.

CLASS III DEFICIENCY

Nursing Home

Will result in no more than minimal physical, mental, or psychosocial discomfort to the resident or has the potential to compromise the resident's ability to maintain or reach his or her highest practical physical, mental, or psychosocial well-being, as defined by an accurate and comprehensive resident assessment, plan of care, and provision of services.

PREPARE TO BE SPECIFIC ABOUT THIS.

CLASS IV DEFICIENCY

Nursing Home

Has the potential for causing no more than a minor negative impact on the resident. If the class IV deficiency is isolated, no plan of correction is required.

CLASS I DEFICIENCY

Assisted Living Facilities

Conditions or occurrences related to the operation and maintenance of a facility or to the personal care of residents which the agency determines present an imminent danger to the residents or guests of the facility or a substantial probability that death or serious physical or emotional harm would result therefrom. The condition or practice constituting a class I violation shall be abated or eliminated within 24 hours, unless a fixed period, as determined by the agency, is required for correction.

400.419(2)(a) Florida Statutes

CLASS II DEFICIENCY

Assisted Living Facilities

Conditions or occurrences related to the operation and maintenance of a facility or to the personal care of residents which the agency determines directly threaten the physical or emotional health, safety, or security of the facility residents, other than class I violations.

CLASS IV DEFICIENCY

Assisted Living Facilities

Conditions or occurrences related to the operation and maintenance of a building or to required reports, forms, or documents that do not have the potential of negatively affecting residents. These violations are of a type that the agency determines do not threaten the health, safety, or security of facility residents of the facility.

CLASS I DEFICIENCY

Home Health Facilities

Any act, omission, or practice that results in a patient's death, disablement, or permanent injury, or places a patient at imminent risk of death, disablement, or permanent injury.

400.484(2)(a) Florida Statutes

CLASS II DEFICIENCY

Home Health Facilities

Any act, omission, or practice that has a direct adverse effect on the health, safety, or security of a patient

CLASS III DEFICIENCY

Home Health Facilities

Any act, omission, or practice that has a indirect adverse effect on the health, safety, or security of a patient

CLASS IV DEFICIENCY

Home Health Facilities

Any act, omission, or practice related to required reports, forms, or documents which does not have the potential of negatively affecting patients. These violations are of a type that the agency determines do not threaten the health, safety or security of patients.

CLASS I DEFICIENCY

Adult Family Care Home

Conditions or practices related to the operation and maintenance of an adult family-care home or to the care of residents which the agency determines present an imminent danger to the residents or guests of the facility or a substantial probability that death or serious physical or emotional harm would result therefrom. The condition or practice constituting a class I violation shall be abated or eliminated within 24 hours, unless a fixed period, as determined by the agency, is required for correction.

400.6196(1)(a) Florida Statutes

CLASS II DEFICIENCY

Adult Family Care Home

Conditions or practices related to the operation and maintenance of an adult family-care home or to the care of residents which the agency determines directly threaten the physical or emotional health, safety, or security of the residents, other than class I violations.

CLASS III DEFICIENCY

Adult Family Care Home

Conditions or practices related to the operation and maintenance of an adult family-care home or to the care of residents which the agency determines potentially threaten the physical or emotional health, safety, or security of residents, other than class I or class II violations.

CLASS IV DEFICIENCY

Adult Family Care Home

Conditions or occurrences related to the operation and maintenance of an adult family-care home, or related to required reports, forms, or documents that do not have the potential of negatively affecting residents.

CLASS III DEFICIENCY

Assisted Living Facilities

Conditions or occurrences related to the operation and maintenance of a facility or to the personal care of residents which the agency determines indirectly or potentially threaten the physical or emotional health, safety, or security of the facility residents, other than class I or class II violations.