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Italic underline text indicates new text at the time of final action; double bold brackets indicate a deletion made at final action.

Title 10

MARYLAND DEPARTMENT OF HEALTH

Subtitle 07 HOSPITALS

10.07.14 Assisted Living Programs

Authority: Health-General Article, Title 19, Subtitle 18, Annotated Code of Maryland

Notice of Final Action

[24-225-F]

On March 21, 2025, the Acting Secretary of Health repealed existing Regulations **.01—~~.64~~** and adopted new Regulations **.01—~~.65~~** under **COMAR 10.07.14 Assisted Living Programs**. This action, which was proposed for adoption in 52:2 Md. R. 82—119 (January 24, 2025), has been adopted with the nonsubstantive changes shown below.

Effective Date: April 28, 2025.

Attorney General's Certification

In accordance with State Government Article, §10-113, Annotated Code of Maryland, the Attorney General certifies that the following changes do not differ substantively from the proposed text. The nature of the changes and the basis for this conclusion are as follows:

COMAR 10.07.14.02 adds clarification to the definition of “Incident,” “Involuntary seclusion,” and “Personal representative.”

COMAR 10.07.14.06 obligates the Office of Health Care Quality (OHCQ) to report misleading or false advertising to the Office of the Attorney General, Division of Consumer Protection, instead of the proposed text which allowed for discretion.

COMAR 10.07.14.15 adds clarification that an assisted living manager for level 3 programs can possess any one of the three options for education and experience.

COMAR 10.07.14.16 adds clarification that the assisted living program manager must complete the 80-hour training course within 6 months and cannot be endlessly enrolled.

COMAR 10.07.14.20 adds clarification that a check of the federal Department of Health and Human Services, Office of the Inspector General's List of Excluded Individuals/Entities database shall be performed for new hires.

COMAR 10.07.14.38 adds clarification that a physician must order a restraint, consistent with Health General 19-1805(a)(8)(vii), Annotated Code of Maryland; adds clarification when a resident is under the care of a general hospice care program, but is physically located in an assisted living program, the general hospice program and the assisted living program must comply with COMAR 10.07.14, 10.07.21, and federal regulations.

COMAR 10.07.14.63 and 10.07.14.64 adds clarification that OHCQ, not the assisted living manager, will notify the Long-Term Care Ombudsman Program in the event of emergency suspension/revocation of a license.

.01 Purpose.

The purpose of this chapter is to set minimum, reasonable standards for licensure of assisted living programs in Maryland. This chapter is intended to maximize independence and promote the principles of individuality, personal dignity, freedom of choice, and fairness for all individuals residing in assisted living programs while establishing reasonable standards to promote individuals' health and safety.

.02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) Abuse of a Resident.

(a) *“Abuse of a resident” means physical, sexual, mental, or verbal abuse, or the improper use of a physical or chemical restraint or involuntary seclusion as those terms are defined in this regulation.*

(b) *“Abuse of a resident” does not include:*

(i) *The performance of an accepted medical procedure ordered by a health care practitioner practicing within the scope of their license;*

(ii) *Compliance with a valid advance directive; or*

(iii) *Honoring a resident’s known wishes regarding medical care.*

(2) *Activities of Daily Living.*

(a) *“Activities of daily living” means normal daily activities.*

(b) *“Activities of daily living” includes:*

(i) *Eating or being fed;*

(ii) *Grooming, bathing, and oral hygiene, including brushing teeth, shaving, and combing hair;*

(iii) *Mobility, transfer, ambulation, and access to the outdoors, when appropriate;*

(iv) *Toileting; and*

(v) *Dressing in clean, weather-appropriate clothing.*

(3) *Administration of Medication.*

(a) *“Administration of medication” means the act of preparing and giving a medication to a resident.*

(b) *“Administration of medication” includes:*

(i) *Identifying the time to administer the medication;*

(ii) *Opening the medication container;*

(iii) *Removing the medication from the container;*

(iv) *Giving the medication to the resident.*

(c) *“Administration of medication” does not include residents who have the cognitive ability to recognize their medications but only require assistance such as:*

(i) *A reminder to take the medication;*

(ii) *Physical assistance with opening a medication container; or*

(iii) *Assistance with removing medication from the container.*

(4) *“Adult medical day care” has the meaning stated in Health-General Article, 14-301, Annotated Code of Maryland.*

(5) *“Advance directive” means:*

(a) *A written or electronic document, voluntarily executed by the declarant consistent with the requirements of Health-General Article, Title 5, Subtitle 6, Annotated Code of Maryland; or*

(b) *A witnessed oral statement, made by the declarant consistent with the provisions of the Health-General Article, Title 5, Subtitle 6, Annotated Code of Maryland.*

(6) *“Alzheimer’s Special Care Unit” means a secured or separated special unit specifically designed for individuals with any type of dementia, including a probable or confirmed diagnosis of Alzheimer’s disease and related dementias.*

(7) *“Assessment” means a process of evaluating an individual’s health, functional and psychosocial history, and condition using the Resident Assessment Tool.*

(8) *“Assist rail” means a hand rail or other similar, substantially constructed device that is installed to enable residents to move safely from one point or position to another.*

(9) *“Assisted living manager” means the individual who is:*

(a) *Designated by an assisted living program to oversee the overall and day-to-day operation of the assisted living program; and*

(b) *Responsible for the duties set forth in Regulation .15 of this chapter.*

(10) *Assisted Living Program.*

(a) *“Assisted living program” means a residential or facility-based program for two or more residents that provides housing and supportive services, supervision, personalized assistance, health-related services, or a combination of these services to meet the needs of individuals who are unable to perform, or who need assistance in performing, the activities of daily living or instrumental activities of daily living, in a way that promotes optimum dignity and independence for the individuals.*

(b) *“Assisted living program” does not include:*

(i) *A nursing facility, as defined under Health-General Article, §19-301, Annotated Code of Maryland;*

(ii) *A State facility, as defined under Health-General Article, §10-101, Annotated Code of Maryland;*

(iii) *A program licensed or approved by the Department under Health-General Article, Title 7 or Title 10, Annotated Code of Maryland;*

(iv) *A hospice care program licensed by the Department under Health-General Article, Title 19, Annotated Code of Maryland;*

(v) *Services provided by family members;*

(vi) *Services provided by a licensed residential service agency or licensed home health agency in an individual’s own home; or*

(vii) *A Certified Adult Residential Environment Program that is certified by the Department of Human Services under Human Services Article, §§6-508—6-513, Annotated Code of Maryland.*

(11) *“Authorized prescriber” means an individual who is authorized to prescribe medications under Health Occupations Article, Annotated Code of Maryland.*

- (12) "Background check" means a check of court and other records by a private agency.
- (13) "Bank" means a bank, trust company, savings bank, savings and loan association, or financial institution that is:
- (a) Authorized to do business in this State; and
 - (b) Insured by the Federal Deposit Insurance Corporation.
- (14) "Certified medication technician" means an individual who is certified as a medication technician by the Maryland Board of Nursing under COMAR 10.39.04.
- (15) "Chemical restraint" means controlling behavior by use of a drug that is not otherwise required to treat medical symptoms.
- (16) Cognitive Impairment.
- (a) "Cognitive impairment" means the loss of those thought processes that orchestrate relatively simple ideas, movements, or actions into goal-directed behavior.
- (b) "Cognitive impairment" includes lack of judgment, planning, organization, self-control, and the persistence needed to manage normal demands of the individual's environment.
- (17) "Common ownership community" means:
- (a) A condominium organized under Real Property Article, Title 11, Annotated Code of Maryland;
 - (b) A homeowners association organized under Real Property Article, Title 11B, Annotated Code of Maryland; or
 - (c) A cooperative housing corporation organized under Corporations and Associations Article, Title 5, Subtitle 6B, Annotated Code of Maryland.
- (18) "Common-use telephone" means a telephone that is:
- (a) Within the facility;
 - (b) Accessible to residents;
 - (c) Located so that residents can have private conversations; and
 - (d) Available to residents to make free local calls.
- (19) "Consultant" means an individual or organization, under contract with a licensee, that may:
- (a) Have partial or full responsibility and control over one or more areas of operations of the assisted living provider; and
 - (b) Provide expertise related to:
 - (i) One or more licensure requirements; or
 - (ii) Standards of care.
- (20) "Contact precautions" means the use of a private room, if available, and appropriate personal protective equipment, such as gowns, gloves, or masks to prevent the transmission of certain organisms between an infected individual and others.
- (21) "Controlled dangerous substance (CDS)" means a medication or substance listed in Schedule I through Schedule V as defined in Criminal Law Article, §5-101, Annotated Code of Maryland.
- (22) "Criminal history records check" means a check of criminal history information, as defined in Criminal Procedure Article, §10-201, Annotated Code of Maryland, by the Department of Public Safety and Correctional Services.
- (23) "Delegating nurse" means a nurse who:
- (a) Is licensed to practice registered nursing in this State as defined in Health Occupations Article, Title 8, Annotated Code of Maryland; and
 - (b) Has successfully completed the Board of Nursing's approved training program for registered nurses, delegating nurses, and case managers in assisted living.
- (24) "Delegation of nursing tasks" means the formal process approved by the Maryland Board of Nursing which permits a professional nurse to assign nursing tasks to an unlicensed individual, a certified nursing assistant, or a medication technician, in accordance with COMAR 10.27.11.03, through:
- (a) A nursing assessment of the patient's nursing care needs prior to delegation of tasks;
 - (b) Instructing the unlicensed individual, certified nursing assistant, or medication technician, or verifying their competency;
 - (c) Supervising of the delegated task in accordance with COMAR 10.27.11.04;
 - (d) Retaining accountability and responsibility for the delegated task;
 - (e) Evaluating the performance of the delegated task; and
 - (f) Assuring accurate documentation of outcomes on the nursing record.
- (25) "Department" means the Maryland Department of Health.
- (26) "Discharge" means releasing a resident from an assisted living program, after which the releasing program no longer is responsible for the resident's care.
- (27) "Emergency admission" means the temporary admittance of an individual in an assisted living program when the individual's health and safety would be jeopardized by not permitting immediate admittance.
- (28) "Emergency Medical Services form" means a form issued by the Maryland Institute for Emergency Medical Services Systems for the purpose of documenting emergency medical services and do not resuscitate orders as defined in Health-General Article, §5-601(k), Annotated Code of Maryland, including a Maryland Medical Orders for Life-Sustaining Treatment (MOLST) form.
- (29) Facilitating Access.
- (a) "Facilitating access" means:
- (i) Making appropriate referrals for care and treatment;

(ii) Arranging for the appointment and involvement of appropriate health care decision makers, when necessary; and
(iii) Facilitating contact between the resident, the resident representative, the health care or social service professional, and needed services.

(b) "Facilitating access" does not mean guaranteeing payment for services that are not:

(i) Covered by the resident agreement; or

(ii) Paid for by the resident or the resident agent.

(30) "Facility" means the physical plant in which an assisted living program is operated.

(31) "Family" means a group of two or more individuals related by legal status or affection who consider themselves a family.

(32) "Family council" means a group of individuals who work together to protect the rights of and improve the quality of life for residents of an assisted living program.

(33) "Financial exploitation" means the misappropriation of a resident's assets or income, including:

(a) Spending the resident's assets or income against the will of or without the consent of the resident or the resident agent;

(b) Spending the resident's assets or income for the use and benefit of a person other than the resident, if the resident or resident agent has not consented to the expenditure; or

(c) The resident agent's misappropriation of the resident funds.

(34) "Frequent" means occurring or appearing quite often or at close intervals, but not continuously.

(35) "Health care practitioner" means a physician, a certified nurse practitioner, or a physician assistant who provides health care services and is licensed under Health Occupations Article, Annotated Code of Maryland.

(36) "Health condition" means the status of a resident's physical, mental, and psychosocial well-being.

(37) "Home health services" means those services provided as defined in Health-General Article, §§19-401—19-410 or §§19-4A-01—19-4A-10, Annotated Code of Maryland.

(38) "Household member" means an individual living in an assisted living program who is not a resident or staff member.

(39) "Incident" means:

(a) The death of a resident from other than natural causes;

(b) The disappearance or elopement of a resident;

(c) An assault on a resident resulting in injury;

(d) An injury to a resident which may require treatment by a health care practitioner, or an event such as a fall which could subsequently require treatment;

(e) Abuse, neglect, or financial exploitation of a resident;

(f) An error or omission in medication or treatment which may result in harm to the resident; [or]

(g) An emergency situation or natural disaster[.]; or

(h) Any other event that results in death, permanent harm, or severe temporary harm.

(40) "Informal dispute resolution (IDR)" means an informal process that provides an assisted living program the opportunity to dispute one or more deficiencies cited in a written statement of deficiencies issued by the Department or the Department's designee related to a recent survey.

(41) "Instrumental activities of daily living" means home management skills, such as shopping for food and personal items, preparing meals, or handling money.

(42) "Intensive" means highly concentrated.

(43) "Intermittent nursing care" means nursing care which is provided episodically, irregularly, or for a limited time period.

(44) Involuntary Seclusion.

(a) "Involuntary seclusion" means the separation of a resident from others or from the resident's room or confinement to the resident's room with or without roommates, against the resident's will or the will of the resident representative.

(b) "Involuntary seclusion" does not mean separating a resident from other residents on a temporary and monitored basis.

(45) "Lavatory" means a basin used to maintain personal cleanliness that has hot and cold running water and sanitary drainage.

(46) "Law enforcement agency" means the Maryland State Police or a police agency of a county or municipal corporation.

(47) "License" means a document issued by the Secretary to operate an assisted living program in the State.

(48) "Licensed pharmacist" means an individual who is authorized to practice pharmacy under Health Occupations Article, Title 12, Annotated Code of Maryland.

(49) "Licensed physician" means an individual who is authorized to practice medicine under Health Occupation Article, Title 14, Annotated Code of Maryland.

(50) "Licensee" means the person to whom a license is issued.

(51) "Management firm" means an organization, under contract with an applicant for a license or a current licensee, that is intended to have or has full responsibility and control over the day-to-day operations of the assisted living program.

(52) "Medical Orders for Life-Sustaining Treatment (MOLST) form" means the form required to be developed pursuant to Health-General Article, §5-608.1, Annotated Code of Maryland.

(53) "Medical record" has the meaning stated in Health-General Article, §4-301, Annotated Code of Maryland.

(54) Mental Abuse.

(a) "Mental abuse" means an intentional course of conduct resulting in or intended to produce emotional harm.

(b) "Mental abuse" does not include the performance of an accepted clinical or medical procedure.

- (55) "Minimal" means the least amount required to produce the desired result.
- (56) "Neglect" means depriving a resident of adequate food, clothing, shelter, supervision, essential medical treatment, or essential rehabilitative therapy.
- (57) Nursing Overview.
- (a) "Nursing overview" means a process by which a registered nurse assures that the health and psychosocial needs of the resident are met.
- (b) "Nursing overview" includes:
- (i) Observation;
 - (ii) Assessment;
 - (iii) Staff education; and
 - (iv) The development, implementation, and evaluation of a resident's service plan.
- (58) "Occasional" means occurring from time to time, on an infrequent or irregular basis, with no particular pattern.
- (59) "Office of Health Care Quality (OHCQ)" means the Office of Health Care Quality of the Maryland Department of Health.
- (60) "Ongoing" means continuing over an extended period of time.
- (61) "Person" means an individual, receiver, trustee, guardian, personal representative, fiduciary, or representative of any kind and any partnership, firm, association, corporation, or other entity.
- (62) "Personal representative" means an individual appointed by the court with the duties and authority to settle and distribute the estate of the decedent consistent with Estates and Trusts Article, §7-401, Annotated Code of Maryland.
- (63) "Physical abuse" means the sustaining of any physical injury or pain to a resident as a result of cruel or inhumane treatment, or as a result of a malicious act by any individual.
- (64) Physical Restraint.
- (a) "Physical restraint" means the use of a device or physical action to prevent, suppress, or control head, body, or limb movement that cannot be readily and easily removed by the resident.
- (b) "Physical restraint" does not mean a protective device as defined in this regulation.
- (65) "Plan of correction" means a written response from the assisted living program that addresses how each deficiency cited as a result of a survey by the Department or the Department's designee will be corrected.
- (66) "Protective device" means any device or equipment, except bedside rails:
- (a) That:
- (i) Shields a resident from self-injury;
 - (ii) Prevents a resident from aggravating an existing physical problem; or
 - (iii) Prevents a resident from precipitating a potential physical problem;
- (b) That may limit, but does not eliminate, the movement of the resident's head, body, or limbs; and
- (c) That is prescribed by a health care practitioner.
- (67) "Quality assurance" means a system for maintaining professionally acceptable standards of care by:
- (a) Identifying opportunities to improve;
 - (b) Studying problems, if any, and their root causes; and
 - (c) Implementing and monitoring interventions to ensure the intended improvement is achieved and sustained.
- (68) "Relief personnel" means qualified individuals who have been hired to substitute for certain staff members:
- (a) In emergency situations; or
- (b) When the assisted living manager or other staff is absent from the assisted living program for extended hours.
- (69) "Resident" means an individual 18 years old or older who requires assisted living services.
- (70) "Resident agent" means a person who manages, uses, or controls the funds or assets that legally may be used to pay an applicant's or resident's share of the costs or other charges for assisted living services.
- (71) "Resident agreement" means a document signed by both the resident or the resident agent and the assisted living manager, or designee, stating the terms that the parties agree to, including, at a minimum, the provisions set forth in Regulations .26 and .27 of this chapter.
- (72) "Resident Assessment Tool" means Maryland's Assisted Living Resident Assessment and Level of Care Scoring Tool that is:
- (a) Developed by the OHCQ with input from assisted living program staff; and
 - (b) Used by assisted living programs to assess the current health, physical, and psychosocial status of prospective and current residents.
- (73) Resident Representative.
- (a) "Resident representative" means a person referenced in Regulation .35 of this chapter.
- (b) "Resident representative" does not include an assisted living program owner or employee that has been designated as a representative payee for a resident.
- (74) Restraint.
- (a) "Restraint" means any chemical restraint or physical restraint as defined in §B(15) and (64) of this regulation.
- (b) "Restraint" does not include a protective device.
- (75) "Sanction" means a disciplinary penalty imposed for a violation of statutes or regulations relating to the operation of an assisted living program, including, but not limited to, those penalties referenced in Regulations .58, .59, .61, .63, and .64 of this chapter.

(76) "Secretary" means the Secretary of Health or the Secretary's designee.

(77) "Self-administration of medication" means a resident having the cognitive and physical ability to take medication as prescribed by an authorized prescriber:

- (a) At the correct time;
- (b) By the correct route; and
- (c) In the correct dosage.

(78) "Service plan" means a written plan developed by an assisted living program in conjunction with the resident and the resident representative, if appropriate, which identifies, among other things, services that the assisted living program will provide to the resident based upon the resident's needs as determined by the Resident Assessment Tool.

(79) "Sexual abuse" means a crime listed in Criminal Law Article, Title 3, Subtitle 3, Annotated Code of Maryland.

(80) "Short-term residential care" means a stay, either continuous or intermittent, in an assisted living program of not more than 30 consecutive days from the date of initial admission, which cannot exceed 180 days per year.

(81) Significant Change of Condition.

(a) "Significant change of condition" means a shift in a resident's health, functional, cognitive, behavioral, or psychosocial conditions that either causes an improvement or deterioration in a resident's condition as described in the Resident Assessment Tool.

(b) "Significant change of condition" does not include any ordinary, day-to-day fluctuations in health status, function, or behavior, or an acute short-term illness, such as a cold, unless these fluctuations continue to recur.

(82) "Staff" means supervisors, assistants, aides, or other employees, including independent contractors retained by an assisted living program, to provide the care and services required by this chapter.

(83) "Standard precautions" means a set of infection control practices used to prevent transmission of diseases that can be acquired by contact with blood, body fluids, non-intact skin (including rashes), and mucous membranes.

(84) "Substantial" means considerable in importance, degree, amount, frequency, or extent.

(85) "Trauma-informed approach" means an approach to care delivery that:

- (a) Recognizes the widespread impact and signs and symptoms of trauma in residents; and
- (b) Incorporates knowledge about trauma into care plans, policies, procedures, and practices to avoid re-traumatization.

(86) "Trauma-informed care" means an approach to delivering care that involves understanding, recognizing and responding to the effects of all types of trauma.

(87) "Treatment" means medical or psychological management to cure, slow the progression of, maintain, or improve a disease or condition.

(88) "Unclaimed deceased resident" means a resident of an assisted living program:

- (a) Who has not prearranged and prepaid for the disposal of the resident's body; or
- (b) For whom no individual has claimed the body and assumed funeral or burial responsibility.

(89) "Verbal abuse" means the use of any oral or gestured language that includes disparaging or derogatory terms, which is directed to a resident, or within a resident's hearing distance, regardless of the resident's age, ability to comprehend, or disability.

.03 Incorporation by Reference.

In this chapter, the following documents are incorporated by reference:

A. Centers for Disease Control and Prevention (CDC) Guidelines for Preventing the Transmission of Mycobacterium tuberculosis in Health-Care Facilities, 2005, which is incorporated by reference in COMAR 10.07.02.02;

B. National Fire Protection Association (NFPA) 101 Life Safety Code (2018 Edition), which is incorporated by reference in COMAR 29.06.01.06; and

C. The State Fire Prevention Code, which is incorporated by reference in COMAR 29.06.01.

.04 License Required.

A. A person may not operate an assisted living program in the State without obtaining a license from the Secretary and complying with the requirements of this chapter.

B. Providing housing under a landlord-tenant arrangement does not, in and of itself, exclude a person from the licensure requirements of this chapter.

C. Separate licenses are required for assisted living programs that are maintained on the same or separate premises, even though the programs are operated by the same person.

D. The Secretary shall issue a license for a specified number of beds and a specified level of care.

E. An assisted living program may not provide services beyond its licensed authority by:

- (1) Providing care to more residents than the total number of licensed beds; or
- (2) Providing care beyond the specified level of care without first obtaining written approval of a resident-specific waiver request from the Department.

F. The number of residents, as stated in §E of this regulation, includes:

- (1) Residents in the facility;
- (2) Individuals admitted to the assisted living program for short-term residential care;
- (3) Family members who are cared for by assisted living program staff; and
- (4) Individuals who are transitioning to the assisted living program.

G. An assisted living program shall conspicuously post its license in a common-use area at the facility.

H. A person who falsifies or alters an assisted living program license shall be subject to referral for a criminal prosecution and imposition of civil fines, as specified in Regulations .57—.65 of this chapter.

.05 Levels of Care.

A. An assisted living program may provide:

- (1) The level of care for which the assisted living program has been approved; and*
- (2) Any lower level of care.*

B. At the time of initial licensure, an applicant shall:

- (1) Request approval to provide services at one of the three levels of care set forth in §G of this regulation; and*
- (2) Demonstrate that the assisted living program has the capacity to provide the level of care requested either directly or*

through the coordination of community services.

C. If, at any time, an assisted living program wants to provide a higher level of care than that for which it is licensed, the assisted living program shall request authority from the Department to change its licensed level of care.

D. The Department shall determine if an applicant or the assisted living program has the capacity to provide and ensure the requested level of care.

E. The Department may approve or deny the request.

F. If an applicant or an assisted living program is aggrieved by the Department's decision, the applicant or the assisted living program may appeal by filing a request for a hearing consistent with Regulation .65 of this chapter.

G. Levels of Care.

(1) The applicant or assisted living program shall:

- (a) Request one of the levels of care listed below; and*
- (b) Have sufficient staff and the abilities necessary to provide the level of care selected.*

(2) Level 1: Low Level of Care.

(a) Health and Wellness. Staff shall have the ability to:

(i) Recognize the causes and risks associated with a resident's current health condition once these factors are identified by a health care practitioner; and

(ii) Provide occasional assistance in accessing and coordinating health services and interventions.

(b) Functional Condition. Staff shall have the ability to provide occasional supervision, assistance, support, setup, or reminders with two or more activities of daily living.

(c) Medication and Treatment. Staff shall have the ability to assist a resident with taking medication or to coordinate access to necessary medication and treatment.

(d) Behavioral Condition. Staff shall have the ability to monitor and provide uncomplicated intervention to manage occasional behaviors that are likely to disrupt or harm the resident or others.

(e) Psychological or Psychiatric Condition. Staff shall have the ability to monitor and manage occasional psychological or psychiatric episodes or fluctuations that require uncomplicated intervention or support.

(f) Social and Recreational Interests. Staff shall have the ability to provide occasional assistance in accessing social and recreational services.

(3) Level 2: Moderate Level of Care.

(a) Health and Wellness. Staff shall have the ability to:

(i) Recognize and accurately describe and define a resident's health condition and identify likely causes and risks associated with the resident's condition; and

(ii) Provide or ensure access to necessary health services and interventions.

(b) Functional Condition. Staff shall have the ability to provide or ensure:

(i) Substantial support with two or more activities of daily living; or

(ii) Minimal support with any number of activities of daily living.

(c) Medication and Treatment. Staff shall have the ability to:

(i) Provide or ensure assistance with taking medication; or

(ii) Administer necessary medication and treatment, including monitoring the effects of the medication and treatment.

(d) Behavioral Condition. Staff shall have the ability to monitor and provide or ensure intervention to manage frequent behaviors which are likely to disrupt or harm the resident or others.

(e) Psychological or Psychiatric Condition. Staff shall have the ability to monitor and manage frequent psychological or psychiatric episodes that may require limited skilled interpretation, or prompt intervention or support.

(f) Social and Recreational Interests. Staff shall have the ability to provide or ensure ongoing assistance in accessing social and recreational services.

(4) Level 3: High Level of Care.

(a) Health and Wellness. Staff shall have the ability to:

(i) Recognize and accurately describe and define a resident's health condition and identify likely causes and risks associated with the residents' condition; and

(ii) Provide or ensure ongoing access to and coordination of comprehensive health services and interventions, including nursing overview.

(b) Functional Condition. Staff shall have the ability to provide or ensure comprehensive support as frequently as needed to compensate for any number of activities of daily living deficits.

- (c) *Medication and Treatment.* Staff shall have the ability to:
 - (i) Provide or ensure assistance with taking medication; and
 - (ii) Administer necessary medication and treatment, including monitoring or arranging for monitoring of the effects of complex medication and treatment regimens.
- (d) *Behavioral Condition.* Staff shall have the ability to monitor and provide or ensure ongoing therapeutic intervention or intensive supervision to manage chronic behaviors which are likely to disrupt or harm the resident or others.
- (e) *Psychological or Psychiatric Condition.* Staff shall have the ability to monitor and manage a variety of psychological or psychiatric episodes involving active symptoms, condition changes, or significant risks that may require skilled interpretation or immediate interventions.
- (f) *Social and Recreational Interests.* Staff shall have the ability to provide or ensure ongoing access to comprehensive social and recreational services.

.06 Restrictions.

A. Restricted Nomenclature. An assisted living program licensed under this chapter may not use in its title or advertising the words "hospital", "sanitarium", "nursing", "convalescent", "rehabilitative", "sub-acute", or "hospice".

B. Advertising an Assisted Living Program.

(1) *Prohibited Terms.* A person operating an assisted living program may not use the term "assisted living" in its advertising without being licensed as an assisted living program by the Department.

(2) *Misleading or False Advertising.*

(a) A person may not advertise, represent, or imply to the public that an assisted living program is authorized to provide a service that the program is not licensed, certified, or otherwise authorized by the Department to provide when the license, certificate, or authorization is required under this chapter.

(b) A person may not advertise an assisted living program in a misleading or fraudulent manner.

(c) The Department ~~[[may]]~~ shall report misleading or false advertising to the Office of the Attorney General, Division of Consumer Protection.

C. Drop-In or Day Services.

(1) An assisted living program may not provide day, partial, or hourly adult day care services without appropriate adult medical day care licensure.

(2) An individual who has applied for admission or who has been admitted to the assisted living program may, for a reasonable period of time not to exceed 30 calendar days, transition to the program in increments of partial days before becoming a resident.

(3) All regulations of this chapter apply to services and care provided during this transition period.

(4) An individual who has applied for admission or who has been admitted to the licensee who is transitioning to the assisted living program is counted as a resident.

D. Dual Licensure. An assisted living program dually licensed as an adult medical day care program or any other licensed program shall meet all requirements for both programs.

E. A person who falsifies or alters an assisted living license shall be subject to referral for criminal prosecution and imposition of civil fines.

F. Disclosure of Ownership. An assisted living owner shall disclose any ownership of an adult medical day care center to an assisted living resident prior to referring the resident to the center.

.07 Licensing Procedure.

A. Application for License.

(1) To obtain and maintain a license, an applicant shall meet all of the requirements of:

(a) This chapter;

(b) Other applicable federal, State, and local laws and regulations; and

(c) Health-General Article, §19-311, Annotated Code of Maryland, if the program provides services to 17 or more residents.

(2) An applicant shall submit:

(a) An application on a written or electronic form developed by the Department;

(b) The completed Uniform Disclosure Statement on a form developed by the Department; and

(c) All other reasonable documents as required by the Department.

(3) At a minimum, the applicant shall provide:

(a) Verification that the applicant or corporate representative is 21 years old or older;

(b) Documentation of any prior denial, suspension, or revocation of a license or certification to provide care to third parties;

(c) Identification of any individual or corporate owner of 25 percent or more interest in the assisted living program;

(d) Documentation of any conviction and current background check or criminal history records check of the owner, the applicant, the assisted living manager, the alternate assisted living manager, other staff, and any household member;

(e) Ownership information as specified on an addendum to the application;

(f) Verification that the facility is owned, leased, or otherwise under the control of the applicant;

(g) The level of care to be provided by the assisted living program, its location, and the name of the proposed assisted living manager;

(h) Documentation of zoning approval, if zoning approval is required by the local jurisdiction in which the assisted living program will be located; and

(i) Where applicable, approvals from the local health department, local or State fire authority, and local area agency on aging.

B. Additional Requirements for Initial Licensure. The Secretary shall require an applicant for initial licensure to submit:

(1) Information concerning any license or certification held by the applicant under Health Occupations Article or Health-General Article, Annotated Code of Maryland, including the prior or current operation by the applicant of a health care facility or similar health care program;

(2) Information demonstrating financial or administrative ability to operate an assisted living program in compliance with this chapter, which shall include a business plan and 1-year operating budget;

(3) Policies and procedures to be implemented as designated in the application for licensure; and

(4) Other reasonably relevant information, if required by law or local jurisdiction, such as:

(a) Verification of Workers' Compensation insurance;

(b) Facility plan review documentation;

(c) Food service permit; and

(d) Rental license.

C. License Suspension or Revocation.

(1) The owner, assisted living manager, alternate assisted living manager, or board member of an assisted living program that has had its license suspended or revoked by the Department may not own, operate, lease, or manage another assisted living program for 10 years from the date the license was suspended or revoked without good cause shown.

(2) After 10 years, the applicant shall submit evidence to the Department that the applicant is capable of owning, managing, or operating an assisted living program.

D. Sanctions and Uncorrected Deficiencies.

(1) If an owner, assisted living manager, or alternate assisted living manager of an assisted living program operates, leases, or manages an assisted living program that has had sanctions imposed or deficiencies cited within the past 3 years and has not corrected the deficiencies which present a risk to the health or safety of residents for a currently licensed assisted living program, that owner, assisted living manager, or alternate assisted living manager may not apply to open an additional assisted living program until those deficiencies have been corrected as approved by the Department.

(2) The Department may not approve a license application for an assisted living program if the owner, assisted living manager, or alternate assisted living manager operates, leases, or manages a licensed assisted living program that has uncorrected deficiencies.

(3) In making a determination about a pending assisted living program license application, the Department may consider any sanctions or uncorrected deficiencies that were imposed before or after the application submission which present a risk to the health or safety of residents for a currently licensed assisted living program that is operated, leased, or managed by an owner, assisted living manager, or alternate assisted living manager in the pending license application.

E. Violations and Criminal Convictions.

(1) The Department reserves the right to deny licensure to an applicant based on the owner's, assisted living manager's, or alternate assisted living manager's prior:

(a) History of violations of assisted living regulations;

(b) Criminal history that the Department determines may be potentially harmful to residents;

(c) Convictions as described in 42 U.S.C. §1320a-7(a) or Criminal Law Article, §14-101, Annotated Code of Maryland; and

(d) History of final actions of a Health Occupations Board.

(2) In making a determination about a license application, the Department shall consider the following factors related to a criminal conviction:

(a) The age at which the crime was committed;

(b) The circumstances surrounding the crime;

(c) The length of time that has passed since the crime; and

(d) Subsequent work history.

(3) In making a determination about a license application, the Department shall consider the following factors related to a violation of assisted living regulations:

(a) The circumstances surrounding the violation;

(b) The length of time since the violation occurred;

(c) The scope of the violation;

(d) The severity of the violation; and

(e) The implementation of a plan of correction.

(4) The Department shall consider other evidence that demonstrates whether the applicant poses a threat to the health or safety of residents in an assisted living program.

F. Determination of License Application.

(1) Based on information provided to the Department by the applicant and the Department's own investigation, the Secretary shall:

(a) Approve the application unconditionally;

(b) Approve the application conditionally, which may include, among other conditions, requiring the applicant to use the services of a management firm approved by the Secretary; or

(c) Deny the application.

(2) The Secretary may not require use of a management firm for a period in excess of 24 months.

(3) A person may not:

(a) Operate an assisted living program until a provisional license or license has been issued; or

(b) Operate multiple sites until each site has been inspected and approved by the Department.

(4) A person aggrieved by a decision of the Secretary under this section to deny a license application may appeal the Secretary's action by filing a request for a hearing consistent with Regulation .65 of this chapter.

G. Provisional Licenses for Less than 1 Year. The Department may issue a provisional license if:

(1) An assisted living program is not in full compliance with this chapter;

(2) The Department determines that the noncompliance does not constitute a safety or health hazard; and

(3) The applicant or assisted living program has submitted a plan of correction acceptable to the Department which satisfactorily addresses the correction of each deficiency within a time frame acceptable to the Department.

H. License Application Administratively Closed.

(1) An application is not complete until the Department has received the completed license application and all required documents.

(2) After 180 calendar days from the date of initial receipt, the Department may deem an incomplete license application inactive and administratively close the application.

(3) An applicant whose application is administratively closed may reapply for a license by submitting a new application.

.08 Changes in an Assisted Living Program that Affect the Operating License.

A. General Information Related to Licensure.

(1) A licensee shall immediately notify the Department of any change in the information the licensee had submitted with the most recent application.

(2) A license is valid only in the name of the licensee to whom it is issued, and is not subject to sale, assignment, or other transfer.

(3) A license is valid only for the premises for which it was originally issued.

(4) A licensee shall forward to the Department a copy of any report or citation of a violation of any applicable building codes, sanitary codes, fire safety codes, or other regulations affecting the health, safety, or welfare of residents within 7 calendar days of receipt of the report or citation. An assisted living program's failure to notify the Department may result in the imposition of a sanction.

B. Increase in Licensed Beds.

(1) An assisted living program may not provide assisted living services to more residents than the number of beds approved in writing by the Department.

(2) To request an increase in the number of beds, a licensed assisted living program shall:

(a) Submit the request for an increase in licensed beds on the form developed by and in the manner established by the Department; and

(b) Attach the required documents, including, at a minimum, proof of compliance with all local requirements for fire safety, use and occupancy, and zoning permits.

(3) If approved, the Department shall issue a new license to the assisted living program that includes the approved number of beds.

(4) Upon receipt of a new license, all use of the previously issued assisted living program license shall cease.

C. Increase in Level of Care.

(1) An assisted living program may not provide a higher level of care for residents than is approved by the Department unless a specific resident has a waiver to receive a higher level of care.

(2) To request an increase in the level of care, an assisted living program shall:

(a) Submit the request for an increase in the level of care on the form developed by and in the manner established by the Department; and

(b) Attach supporting documentation, including any changes in staffing, training, or policies and procedures.

(3) If approved, the Department shall issue a new license to the assisted living program that includes the approved level of care.

(4) Upon receipt of a new license, all use of the previously issued assisted living program license shall cease.

D. Name Change.

(1) An assisted living program shall have a revised license from the Department to change its name or the name under which the program is doing business.

(2) To request a name change, an assisted living program shall:

(a) Submit the request for a name change on the form developed by and in the manner established by the Department; and

(b) Attach the required attachments, including a letter of good standing from the Maryland State Department of Assessments and Taxation (SDAT) Business Express.

(3) Upon processing, the Department shall issue a new license to the assisted living program that includes the new name of the licensee.

(4) Upon receipt of a new license, all use of the previously issued assisted living program license shall cease.

E. Change of Location.

(1) Prior to operating an assisted living program at a new location, the applicant shall have an assisted living program license issued by the Department.

(2) To request an assisted living program license for a new location, an applicant shall:

(a) Submit an application for an assisted living program license on the form developed by and in the manner established by the Department; and

(b) Submit all required attachments.

(3) An assisted living program shall notify the Department in writing of a relocation:

(a) Within 60 calendar days in advance of the effective date if licensed for 49 or fewer beds; or

(b) Within 75 calendar days in advance of the effective date if licensed for 50 or more beds.

(4) An assisted living program shall notify residents and resident representatives in writing of a relocation:

(a) Within 60 calendar days in advance of the effective date if licensed for 49 or fewer beds; or

(b) Within 75 calendar days in advance of the effective date if licensed for 50 or more beds.

(5) If approved, the Department shall issue a license to the assisted living program at the new location.

(6) Upon receipt of a new license, all use of the previously issued assisted living program license shall cease.

F. Change of Ownership — Sale, Transfer, or Lease of a Facility.

(1) If a sale, transfer, or lease of a facility causes a change in the person or persons who control or operate the assisted living program, the assisted living program shall be considered a new program and the new owner shall apply for a license and conform to all regulations applicable at the time of transfer of operations.

(2) The transfer of any stock which results in a change of the person or persons who control the program or the transfer of any stock in excess of 25 percent of the outstanding stock, constitutes a sale.

(3) For the purposes of Life Safety Code enforcement, the program is considered an existing facility if it has been in continuous use as an assisted living program.

(4) An assisted living program shall notify the Department in writing of a change of ownership, sale, transfer, or lease of a facility:

(a) Within 60 calendar days in advance of the effective date if licensed for 49 or fewer beds; or

(b) Within 75 calendar days in advance of the effective date if licensed for 50 or more beds.

(5) An assisted living program shall notify residents and resident representatives in writing of a change of ownership, sale, transfer, or lease of a facility:

(a) Within 60 calendar days in advance of the effective date if licensed for 49 or fewer beds; or

(b) Within 75 calendar days in advance of the effective date if licensed for 50 or more beds.

(6) If a change of ownership of the assisted living program is occurring, the new owner shall:

(a) Submit an application for an assisted living program license on the form developed by and in the manner established by the Department; and

(b) Submit all required attachments.

(7) If approved, the Department shall issue a license to the assisted living program.

(8) Upon receipt of a new license, all use of the previously issued assisted living licensee shall immediately cease.

(9) A licensee named in the original license shall remain responsible for the operation of the assisted living program until a new license is issued to the new owner, and the current licensee shall remain responsible for correction of all outstanding deficiencies or impending sanctions until a new license is issued to the new owner.

G. Voluntary Closure.

(1) An assisted living program shall notify the Department of any intention to voluntarily close:

(a) Within 60 calendar days in advance of the closure if licensed for 49 or fewer beds; or

(b) Within 75 calendar days in advance of the closure if licensed for 50 or more beds.

(2) The assisted living program shall include the following information in the notice to the Department:

(a) The method for informing residents and resident representatives of its intent to close, change ownership, change location, or sell its assisted living program; and

(b) The actions the assisted living program will take to assist residents in securing comparable housing and assistance, if necessary.

(3) An assisted living program shall notify residents and resident representatives of a voluntary closure, in writing:

(a) Within 60 calendar days in advance of the closure if licensed for 49 or fewer beds; or

(b) Within 75 calendar days in advance of the closure if licensed for 50 or more beds.

(4) The assisted living program shall provide at least weekly updates to the OHCQ, including:

(a) Number of residents remaining in the facility;

(b) Number of residents with plans for relocation; and

(c) Number of residents with no plans for relocation.

(5) In addition to the notice to the Department required by §B of this regulation, after a program closes, the assisted living program shall:

(a) Notify the Department of the date of closure and the place of relocation of each resident; and

(b) Cease all use of the previously issued assisted living program license.

H. Voiding of License.

(1) Maryland State Department of Assessments and Taxation (SDAT).

(a) A licensed assisted living program shall remain in good standing with (SDAT).

(b) If the assisted living program fails to return to good standing 60 calendar days after receipt of notification of noncompliance from SDAT or another government agency, the Department may void the assisted living program's license.

(2) Ceases the Provision of Services.

(a) A license is void if the assisted living program ceases to provide services to residents for a period of 180 consecutive days.

(b) The owner shall immediately cease all use of the previously issued assisted living program license when the license is voided.

I. Surrender of License.

(1) Unless the Department agrees to accept the surrender of a license, an assisted living program may not surrender a license to operate an assisted living program nor may the license lapse by operation of law while the licensee is under investigation or while charges are pending against the licensee.

(2) The Department may set conditions on its agreement with the licensee under investigation or against which charges are pending to accept surrender of the license.

.09 Licensure Standards Waiver.

A. The Department may grant an assisted living program a waiver from the licensure requirements of this chapter with or without conditions.

B. The Department may not, however, grant a waiver from the requirements of Regulation .23A of this chapter. If, however, two individuals having a long-term or otherwise significant relationship wish to be admitted to a program in order to reside in the program together, and one of the individuals requires care as defined in Regulation .23A of this chapter, the Department may grant a waiver consistent with the process established in Regulation .24 of this chapter.

C. Application for Licensure Standards Waiver.

(1) An assisted living program shall submit a request for a waiver under this regulation on a form developed and in the manner established by the Department.

(2) The requestor shall provide in writing the:

(a) Regulation from which a waiver is sought;

(b) Reason the assisted living program is unable to comply with the regulation;

(c) Reason that compliance with the regulation will impose a substantial hardship; and

(d) Reason that a waiver will not adversely affect residents.

D. Evaluation of Application for Licensure Standards Waiver. In evaluating a waiver request submitted under this regulation, the Department shall review the statements in the application, and may:

(1) Inspect the assisted living program;

(2) Confer with the assisted living manager or designee; or

(3) Discuss the request with residents or their representatives to determine whether they believe a waiver is in the residents' best interest.

E. Grant or Denial of Licensure Standards Waiver.

(1) The Department may grant a waiver request if it determines that:

(a) Compliance with the regulation from which the waiver is sought cannot be accomplished without substantial hardship; and

(b) A waiver will not adversely affect residents.

(2) If the Department determines that the conditions of §E(1) of this regulation are not met, the Department shall deny the request for a waiver. The denial of a waiver may not be appealed.

F. Written Decision.

(1) The Department shall issue and mail to the applicant a final written decision on a waiver request submitted under §A of this regulation within 45 calendar days from receipt of the request and all appropriate supporting information.

(2) If the Department grants the waiver, the written decision shall include the waiver's duration and any conditions imposed by the Department.

G. If an assisted living program violates any condition of the waiver, or if it appears to the Secretary that the health or safety of residents residing in the assisted living program will be adversely affected by the continuation of the waiver, a waiver may be revoked. The revocation of a waiver may not be appealed.

.10 Uniform Disclosure Statement.

A. When an assisted living program changes the services reported on its Uniform Disclosure Statement filed with the Department under Regulation .07A(2)(b) of this chapter, the program shall file an amended Uniform Disclosure Statement with the Department within 30 calendar days of the change in services.

B. If an individual requests a copy of an assisted living program's Uniform Disclosure Statement, the assisted living program shall provide a copy of the Uniform Disclosure Statement on a form provided by the Department without cost to the individual making the request.

C. An assisted living program shall provide a copy of the current Uniform Disclosure Statement to individuals as part of the program's marketing materials.

.11 Investigation by Department.

A. Assisted Living Program to Be Open for Inspection.

(1) An assisted living program operated by a licensee, and any premises proposed to be operated as an assisted living program, shall be open at all times to announced or unannounced inspections by the Department and by any agency designated by the Department.

(2) Any part of the facility, and any surrounding accessory buildings which may be entered by staff or residents, are considered part of the facility and are subject to inspection.

(3) An assisted living program and any premises proposed to be operated as an assisted living program may not deny access to the Department or any agency designated by the Department.

(4) At all times, the staff on duty at an assisted living program shall know how to contact the assisted living manager, alternate assisted living manager, delegating nurse, and alternate delegating nurse.

B. Records and Reports.

(1) Inspection.

(a) An assisted living program shall maintain records and reports.

(b) The records and reports may be paper or electronic documents.

(c) The records and reports shall be open to inspection by the Department or its designee.

(d) Except for the records permitted to be stored off-site, an assisted living program shall immediately, upon request, provide copies of records and reports, including medical records of residents, to the Department or its designee.

(2) Maintenance.

(a) The assisted living program shall maintain files on-site pertaining to:

(i) Current residents;

(ii) Residents who have been discharged within the last 6 months;

(iii) Staff; and

(iv) Quality assurance activities.

(b) The files listed in §B(2)(a) of this regulation shall be maintained on-site at the licensed assisted living program where residents receive assisted living services.

(c) All other records may be stored off-site but shall be available for inspection within 24 hours of a request from the Department or the Department's designee.

C. Posting of Documents. *An assisted living program shall post the following documents in a conspicuous place that is visible to residents, potential residents, and other interested parties:*

(1) All of the following:

(a) The notice of compliance or the statement of deficiencies and the plan of correction for the most recent annual licensure survey; and

(b) The notice of compliance or the statement of deficiencies and the plan of correction for all surveys conducted since the last annual licensure survey; or

(2) A notice describing where in the facility the items listed in §C(1) of this regulation may be found.

D. Notice of Deficiencies.

(1) If a survey identifies noncompliance with a requirement, the Secretary shall issue a notice:

(a) Citing each deficiency;

(b) Requiring the assisted living program to submit an acceptable plan of correction within 10 calendar days of receipt of the statement of deficiencies;

(c) Notifying the assisted living program of sanctions or that failure to correct the violation may result in sanctions; and

(d) Offering the assisted living program the opportunity for informal dispute resolution (IDR).

(2) The plan of correction referred to in §D(1)(b) of this regulation shall include:

(a) How the assisted living program will correct each deficiency;

(b) The date by which each deficient practice will be corrected;

(c) How the assisted living program will prevent the deficient practice from recurring; and

(d) Who will be responsible for ensuring the deficiency will not reoccur.

(3) Failure to return an acceptable plan of correction within the allotted time frame may result in a sanction.

(4) A request for an IDR does not change the assisted living program's requirement to submit a plan of correction for all deficiencies within 10 calendar days after receipt of the notice of deficiency.

E. Informal Dispute Resolution (IDR).

(1) An assisted living program may request an IDR to dispute one or more deficiencies in a statement of deficiencies.

(2) The assisted living program shall submit the request for an IDR to the Department within 10 calendar days of receiving the statement of deficiencies.

(3) The written request for an IDR shall fully describe the disagreement with the statement of deficiencies and be accompanied by all evidence for the Department's consideration.

(4) At the discretion of the Department, the IDR may be held in person, by telephone, by video conference, or in writing.

(5) *IDRs are informal in nature and are not attended by legal counsel representing the assisted living program or the Department.*

(6) *The IDR process may not delay the effective date of any enforcement action.*

(7) *In the event an assisted living program requests an IDR of a deficiency written by a designee of the Department, the Department shall request the designee to participate in the IDR process.*

(8) *There is no appeal of the Department's decision in an IDR.*

.12 Compliance Monitoring.

A. *The Department shall be responsible for monitoring and inspecting assisted living programs to determine compliance with the requirements of this chapter.*

B. *Consistent with an interagency agreement, the Department may delegate certain aspects of its monitoring, inspection, or waiver responsibilities to the Department of Aging or a local health department.*

C. *The Department or its designee may conduct announced or unannounced surveys.*

D. *An assisted living program shall be surveyed on-site, at least annually. The Department may extend the time between surveys to up to 18 months if the assisted living program has:*

(1) *No outstanding plan of correction;*

(2) *No complaints or facility-reported incidents pending investigation;*

(3) *No settlement agreement in effect;*

(4) *No outstanding civil money penalty; and*

(5) *No sanctions in effect.*

E. *The Department, or those agencies delegated responsibility under this regulation, may inspect an assisted living program more frequently than annually if it is considered necessary to determine compliance with this chapter.*

.13 Administration.

A. Quality Assurance.

(1) *The assisted living program manager or their designee shall develop and implement a quality assurance plan.*

(2) *Quality Assurance Plan.*

(a) *The quality assurance plan shall include an annual facility risk assessment for tuberculosis, in accordance with the CDC Guidelines for Preventing the Transmission of Mycobacterium tuberculosis in Health-Care Settings, 2005.*

(b) *The assisted living manager and the delegating nurse shall meet at least every 6 months to review the:*

(i) *Change in status of the assisted living program's residents;*

(ii) *Service plan requirements; and*

(iii) *Written recommendations, findings, and outcomes of pharmacy reviews, as required by Regulation .31I of this chapter.*

(c) *The assisted living manager shall document the proceedings of the meeting referred to in §A(2)(b) of this regulation.*

B. Family Council.

(1) *If assisted living program residents have a family council, the assisted living program shall make reasonable attempts to support and cooperate with the family council.*

(2) *The family council for an assisted living program may include the following members:*

(a) *Members of a current resident's family;*

(b) *An individual appointed by a current resident who has the capacity to appoint an individual;*

(c) *A resident representative; or*

(d) *An individual appointed by a resident representative.*

(3) *The assisted living program shall provide the family council the right to privacy for meetings and, if possible, the space to meet privately.*

(4) *Staff members may attend a meeting only if requested by the family council.*

(5) *The assisted living program shall consider the family council's recommendations and grievances and attempt to accommodate those recommendations and grievances that affect residents' quality of life.*

(6) *The assisted living program shall respond in writing within 30 calendar days to the family council when it has received written requests or grievances from the council.*

C. Resident Council.

(1) *If an assisted living program has a resident council, the assisted living program shall make reasonable attempts to support and cooperate with the resident council.*

(2) *A resident council includes current residents of the assisted living program.*

(3) *The assisted living program shall provide the resident council the right to privacy for meetings and, if possible, the space to meet privately.*

(4) *Staff members may attend a meeting only if requested by the resident council.*

(5) *The assisted living program shall consider the council's recommendations and grievances and attempt to accommodate those recommendations and grievances that affect the residents' quality of life.*

(6) *The assisted living program shall respond in writing within 30 calendar days to the resident council when it has received written requests or grievances from the council.*

.14 Staffing Plan.

A. Following an analysis of the number of residents that the assisted living program intends to serve and the individual needs of each resident, the assisted living program shall develop a staffing plan that identifies the type and number of staff needed to provide the services required by this chapter.

B. The assisted living program shall employ or contract with sufficient numbers of staff to comply with the:

- (1) Requirements of this chapter;*
- (2) Standards of care for the specific conditions of the residents the assisted living program serves; and*
- (3) All other applicable laws and regulations.*

C. Resident Care Needs.

(1) The resident's care needs shall determine the:

- (a) Need, amount, and frequency of nursing overview by the registered nurse;*
- (b) Need for on-site nursing services; and*
- (c) Need for awake overnight staff.*

(2) The Department may approve a waiver of the requirement for awake overnight staff when the assisted living program has demonstrated to the Department its use of an effective electronic monitoring system.

(3) The Department may not approve a waiver for awake overnight staff on an Alzheimer's Special Care Unit.

(4) The assisted living program shall comply with applicable requirements of COMAR 10.27.09.

D. On-Site Staff.

(1) The staffing plan shall include on-site staff sufficient in number and qualifications to meet the 24-hour scheduled and unscheduled needs of the residents.

(2) When a resident is in the facility, a staff member shall be present.

(3) When a resident is expected to return to the assisted living program, a staff member shall be present.

(4) A staffing schedule shall:

- (a) Be maintained on-site;*
- (b) Include the date, shift hours, and identifying name of all staff members scheduled to work; and*
- (c) Be kept on file for 18 months.*

E. Awake Overnight Staff.

(1) An assisted living program shall provide awake overnight staff when a resident's assessment using the Resident Assessment Tool indicates that awake overnight staff is required according to instructions on that tool.

(2) If a health care practitioner or assessing registered nurse, in the health care practitioner's or registered nurse's clinical judgment, does not believe that a resident requires awake overnight staff, the health care practitioner or assessing registered nurse shall document the reasons in the area provided in the Resident Assessment Tool.

(3) The assisted living program shall retain this documentation in the resident's record.

(4) Awake overnight staff are required on an approved Alzheimer's Special Care Unit.

F. Electronic Monitoring Systems.

(1) Upon the written recommendation of the resident's health care practitioner, the assisted living program may apply to the Department for a waiver in accordance with Regulation .09 of this chapter to use an electronic monitoring system instead of awake overnight staff.

(2) If an electronic monitoring system is approved by the Department for the assisted living program to use, the licensee shall document the approval of the electronic monitoring system in the area provided on the Resident Assessment Tool.

(3) When a resident is assessed or reassessed using the Resident Assessment Tool, the health care practitioner shall review and document the:

(a) Need for awake overnight staff if the resident's previous assessment or review of an assessment indicated awake overnight staff was not necessary at the time; and

(b) Continued appropriateness of a waiver to use an approved electronic monitoring system instead of awake overnight staff.

(4) The assisted living program shall comply with applicable requirements of COMAR 10.27.09.

(5) The Department may not approve a waiver for awake overnight staff on an Alzheimer's Special Care Unit.

G. On-Site Nursing Requirements.

(1) An assisted living program shall provide on-site nursing when a delegating nurse or health care practitioner, based upon the needs of a resident, issues a nursing or clinical order for that service.

(2) If an assisted living manager determines that a nursing or clinical order should not or cannot be implemented, the assisted living manager, delegating nurse, and resident's health care practitioner shall discuss any alternatives that could safely address the resident's needs.

(3) The assisted living manager shall document in the resident's record this discussion and all individuals who participated in the discussion.

(4) If there are alternatives that could safely address the resident's needs, the assisted living manager shall notify the resident and, if appropriate, the resident's legal representative, the delegating nurse, and resident's health care practitioner of the change to the order.

(5) The assisted living manager shall document in the resident's record this change and the date of notification.

(6) If an assisted living manager fails to implement a nursing or clinical order without identifying and providing alternatives to the care or service order, the delegating nurse shall notify the resident's health care practitioner, the OHCQ, and the resident or, if appropriate, the legal representative of the resident.

(7) Failure to implement a nursing or clinical order, without demonstrating why the order should not be followed or without identifying alternatives to care, may result in sanctions against the assisted living program and referral of a licensed or certified staff to the appropriate health occupations licensing board.

H. On-site nursing personnel shall work in partnership with the delegating nurse and assisted living program staff to ensure:

- (1) Adequate assessment of residents;
- (2) Planning of medical services; and
- (3) Oversight of nursing activities.

.15 Assisted Living Manager.

A. Qualifications.

(1) An individual shall be licensed as required by Health Occupations Article, §9-3A-01, Annotated Code of Maryland, before the individual may practice as an assisted living manager in Maryland.

(2) The assisted living manager shall at a minimum:

- (a) Be 21 years old or older;
- (b) Possess a high school diploma, a high school equivalency diploma, or other appropriate education and have experience to conduct the responsibilities specified in §C of this regulation;
- (c) For level 3 licensed programs, have:
 - (i) A 4-year, college-level degree; or
 - (ii) 2 years experience in a health care related field and 1 year of experience as an assisted living program manager or alternate assisted living manager; or
 - (iii) 2 years experience in a health care related field and successful completion of an 80-hour assisted living manager training course approved by the Department;
- (d) Be free from tuberculosis in a communicable form in accordance with Guidelines for Preventing the Transmission of *Mycobacterium tuberculosis* in Health-Care Facilities;
- (e) Be immune to measles, mumps, rubella, and varicella as evidenced by history of disease or vaccination;
- (f) Have no criminal convictions or other criminal history that indicates behavior that is potentially harmful to residents, documented through either a criminal history records check or a background check, completed within 1 month before employment;
- (g) Have sufficient skills, training, and experience to serve the residents in a manner that is consistent with the philosophy of assisted living;
- (h) Have verifiable knowledge in:
 - (i) The health and psychosocial needs of the population being served;
 - (ii) The resident assessment process;
 - (iii) Use of service plans;
 - (iv) Cuing, coaching, and monitoring residents who self-administer medications, with or without assistance;
 - (v) Providing assistance with ambulation, personal hygiene, dressing, toileting, and feeding; and
 - (vi) Resident rights;
- (i) Receive initial and annual training in:
 - (i) Fire and life safety;
 - (ii) Infection control, including standard precautions;
 - (iii) Emergency disaster plans; and
 - (iv) Basic food safety; and
- (j) Receive initial certification and recertification every 2 years for:
 - (i) Basic first aid taught by a first aid instructor certified by a national organization; and
 - (ii) Basic cardiopulmonary resuscitation (CPR), including a hands-on component, taught by a CPR instructor certified by a nationally recognized organization.

(3) An assisted living manager who has completed the training and passed the examination set forth in Regulation .16 of this chapter shall be presumed to have met the knowledge requirements of §A(1)(g) and (h) of this regulation.

B. The Department may determine that an individual is not sufficiently qualified to serve as an assisted living manager if that individual's managerial or administrative experience, or education, is not sufficient to perform the responsibilities set forth in §C of this regulation for the residents the assisted living program intends to serve.

C. Duties. The assisted living manager shall:

- (1) Be on-site or available on call; and
- (2) Have overall responsibility for:
 - (a) The management of the assisted living program, including recruiting, hiring, training, and supervising all staff, and ensuring that either a criminal history records check or a background check is conducted consistent with the requirements of Health-General Article, Title 19, Subtitle 19, Annotated Code of Maryland;
 - (b) The development and implementation of a staffing plan, which includes an orientation and ongoing training program for all staff, with specific training in the management, assessment, and programming for the resident with cognitive impairment as required by Health-General Article, §19-319.1, Annotated Code of Maryland;
 - (c) The development and implementation of all policies, programs, and services as required by this chapter;
 - (d) Requiring all employees to perform hand hygiene with either soap and water or an alcohol-based hand sanitizer before and after each direct resident contact for which hand hygiene is indicated by acceptable practice;

- (e) Providing or ensuring, through the coordination of community services, that each resident has access to appropriate medical and psychosocial services, as established in the resident service plan developed under Regulation .28 of this chapter;
- (f) Ensuring that there is appropriate coordination of all components of a resident's service plan, including necessary transportation and delivery of needed supplies;
- (g) Ensuring that there is appropriate oversight and monitoring of the implementation of each resident's service plan;
- (h) Ensuring that all record keeping conforms to the requirements of this chapter and other applicable laws;
- (i) Ensuring that all requirements of this chapter and other applicable laws are met;
- (j) Implementing a nursing or clinical order of the delegating nurse or documenting in the resident's record why the order should not be implemented;
- (k) Notifying the Department:
 - (i) When the manager terminates the program's contract with or employment of a delegating nurse; and
 - (ii) Of the reason why the contract or employment was terminated;
- (l) Notifying the resident and, if applicable, the resident representative or interested family member of any:
 - (i) Significant change in condition of the resident;
 - (ii) Adverse event that may result in a change in condition;
 - (iii) Outcome of the resident's care that results in an unanticipated consequence; and
 - (iv) Corrective action, if any;
- (m) Ensuring that the annual influenza vaccine has been advised in accordance with current CDC recommendations and documented surveillance of non-immune staff when indicators of local influenza activity are elevated; and
- (n) Ensuring that the COVID-19 vaccine has been advised in accordance with current CDC recommendations and documented surveillance of non-immune staff when indicators of local COVID-19 activity are elevated.

.16 80-Hour Assisted Living Manager Training Course.

- A. In addition to the requirements in Regulation .15 of this chapter, by January 1, 2006, an assisted living manager shall complete an 80-hour manager training course that is approved by the Department.
- B. The completed manager's training course shall:
 - (1) Consist of 80 hours of course work and include an examination; and
 - (2) Provide the training through in-person courses, virtual training methods, or a combination of both.
- C. An assisted living manager employed in a program shall complete 20 hours of Department-approved continuing education every 2 years.
- D. A program that fails to employ an assisted manager who meets the requirements of this regulation may be subject to:
 - (1) Sanctions under Regulation .57 of this chapter; and
 - (2) A civil money penalty not to exceed \$10,000.
- E. The training requirements of §A of this regulation do not apply to an individual who:
 - (1) Is employed by a program and has enrolled in a Department-approved manager training course that the individual ~~[[expects to complete]]~~ completes within 6 months;
 - (2) Is temporarily serving as an assisted living manager under Health Occupations Article, §9-3A-01, Annotated Code of Maryland, due to an assisted living manager leaving employment and before the hiring of a permanent manager;
 - (3) Has been employed as an assisted living manager in the State for 1 year before January 1, 2006; or
 - (4) Is licensed as a nursing home administrator in the State.
- F. The Department may require an individual who is exempt under the provisions of §E of this regulation to complete a manager training course and examination if:
 - (1) The Department finds that the assisted living manager repeatedly has violated State law or regulations on assisted living; and
 - (2) Those violations have caused or have the potential to cause physical or emotional harm to a resident.

.17 80-hour Assisted Living Manager Basic Training Course.

- A. The 80-hour assisted living manager basic training course shall include the following content:
 - (1) Philosophy of assisted living, 2 hours, including:
 - (a) Philosophy and background of assisted living and aging in place;
 - (b) Objectives and principles of assisted living resident programs;
 - (c) Comparison of assisted living to other residential programs;
 - (d) Basic concepts of choice, independence, privacy, individuality, and dignity; and
 - (e) Normalization of the environment;
 - (2) Aging process and its impact, 4 hours, including:
 - (a) Physical characteristics of the assisted living residents;
 - (b) Psychosocial characteristics of the assisted living residents;
 - (c) Basic needs of the elderly and disabled; and
 - (d) Activities of daily living;
 - (3) Assessment and level of care waiver, 6 hours, including:
 - (a) Purpose and process;
 - (b) Guidelines for conducting assessments;
 - (c) Level of care assessments; and

- (d) Collaboration with the delegating nurse;
- (4) Service planning, 6 hours, including:
 - (a) Required services;
 - (b) Enhanced scope of services;
 - (c) Development of individualized service plans;
 - (d) Scheduling of appropriate activities;
 - (e) Structure of activities;
 - (f) Care notes; and
 - (g) Collaboration with the delegating nurse;
- (5) Clinical management, 20 hours, including:
 - (a) Role of the delegating nurse;
 - (b) Appropriate nurse delegation;
 - (c) Concept of self-administration of medications;
 - (d) Concept of medication management;
 - (e) Assistance with self-administration of medications;
 - (f) Administration of medications;
 - (g) Coordination of services and care providers;
 - (h) Collaboration with the delegating nurse;
 - (i) Preventing medication errors;
 - (j) Patient safety;
 - (k) Medication monitoring;
 - (l) Pharmacy consultation;
 - (m) Medication storage;
 - (n) Infection prevention and control to include:
 - (i) Standard and contact precautions;
 - (ii) Bloodborne pathogens;
 - (iii) Standard hand hygiene practices;
 - (iv) Safe injection practices;
 - (v) Use of personal protective equipment; and
 - (vi) Cleaning and disinfection of equipment and the environment;
 - (o) Appropriate staffing patterns;
 - (p) Pressure sores;
 - (q) Effective pain management;
 - (r) Basic first aid taught by a first aid instructor certified by a national organization;
 - (s) Basic cardiopulmonary resuscitation (CPR), including a hands-on component, taught by a CPR instructor certified by a nationally recognized organization;
 - (t) Substance abuse;
 - (u) Trauma-informed care; and
 - (v) A trauma-informed approach to care delivery;
- (6) Admission and discharge criteria, 4 hours, including:
 - (a) Overview of criteria for admission and discharge;
 - (b) Resident contracts;
 - (c) Resident rights;
 - (d) Financial management of resident's funds; and
 - (e) Working with families of residents;
- (7) Nutrition and food safety, 8 hours, including:
 - (a) Menu and meal planning;
 - (b) Basic nutritional needs;
 - (c) Safe food handling;
 - (d) Preventing food-borne illnesses;
 - (e) Therapeutic diets; and
 - (f) Dehydration;
- (8) Dementia, mental health, and behavior management, 12 hours, including:
 - (a) An overview consisting of:
 - (i) Description of normal aging and conditions causing cognitive impairment;
 - (ii) Description of normal aging and conditions causing mental illness;
 - (iii) Risk factors for cognitive impairment;
 - (iv) Risk factors for mental illness;
 - (v) Health conditions that affect cognitive impairment;
 - (vi) Health conditions that affect mental illness;
 - (vii) Early identification and intervention for cognitive impairment;
 - (viii) Early identification and intervention for mental illness; and

- (ix) Procedures for reporting cognitive, behavioral, and mood changes;
- (b) Effective communication consisting of:
 - (i) Effect of cognitive impairment on expressive and receptive communication;
 - (ii) Effect of mental illness on expressive and receptive communication;
 - (iii) Effective communication techniques, including verbal, nonverbal, tone and volume of voice, and word choice; and
 - (iv) Environmental stimuli and influences on communication, including setting, noise, and visual cues;
- (c) Behavioral intervention consisting of:
 - (i) Identifying and interpreting behavioral symptoms;
 - (ii) Problem solving for appropriate intervention;
 - (iii) Risk factors and safety precautions to protect other residents and the individual;
 - (iv) De-escalation techniques; and
 - (v) Collaboration with the delegating nurse;
- (d) Making activities meaningful consisting of:
 - (i) Understanding the therapeutic role of activities;
 - (ii) Creating opportunities for activities, including productive, leisure, and self-care; and
 - (iii) Structuring the day;
- (e) Staff and family interaction consisting of:
 - (i) Building a partnership for goal-directed care;
 - (ii) Understanding family needs; and
 - (iii) Effective communication between family and staff; and
- (f) Managing staff stress consisting of:
 - (i) Understanding the impact of stress on job performance, staff relations, and overall facility environment;
 - (ii) Identification of stress triggers;
 - (iii) Self-care skills;
 - (iv) De-escalating techniques; and
 - (v) Devising support systems and action plans;
- (9) End of life care, 4 hours, including:
 - (a) Advance directives;
 - (b) Hospice care;
 - (c) Maryland Medical Orders for Life-Sustaining Treatment (MOLST) order form;
 - (d) Power of attorney;
 - (e) Appointment of a health care agent;
 - (f) Living will;
 - (g) Pain management;
 - (h) Providing comfort and dignity; and
 - (i) Supporting the family;
- (10) Management and operation, 4 hours, including:
 - (a) Role of the assisted living manager;
 - (b) Overview of accounting, accounts payable, and accounts receivable;
 - (c) The revenue cycle and budgeting;
 - (d) The basics of financial statements;
 - (e) Hiring and training of staff;
 - (f) Developing personnel policies and procedures;
 - (g) Census development; and
 - (h) Marketing;
- (11) Emergency planning, 4 hours, including:
 - (a) Fire, disaster, and emergency preparedness;
 - (b) Occupational Safety and Health Administration (OSHA) requirements;
 - (c) Maintaining the building, grounds, and equipment;
 - (d) Elopements;
 - (e) Transfers to the hospital;
 - (f) Evacuations;
 - (g) Power outages;
 - (h) Severe weather;
 - (i) Fire;
 - (j) Emergency response systems; and
 - (k) Security systems;
- (12) Quality assurance, 4 hours, including:
 - (a) Incident report processes; and
 - (b) Quality improvement processes; and
- (13) Survey process, 2 hours, including:
 - (a) State statutes and regulations;

- (b) What to expect during a survey; and
- (c) Documentation.

B. A person seeking to offer the assisted living manager training course shall request and obtain approval by the Department by:

- (1) Submitting the proposed curriculum and training materials to the Department; and
- (2) Being available for an in-person or telephone interview by the Department.

.18 Alternate Assisted Living Manager.

An alternate assisted living manager shall:

- A. Be available to assume the responsibilities described in Regulation .15C(2)(a)—(l) of this chapter when the assisted living manager is not available;
- B. Be 21 years old or older;
- C. Have 2 years of experience in a health-related field; and
- D. Meet the qualifications of Regulation .19B(1)—(7) of this chapter.

.19 Other Staff — Qualifications.

A. Age Requirements of Other Staff.

(1) Direct resident care staff shall be:

- (a) 18 years old or older; [or]
- (b) 16 or 17 years old who are enrolled in a certified nursing assistant training program and are supervised until certified;

or

(c) 16 or 17 years old and are certified as a nursing assistant.

(2) Other staff not performing direct resident care may be younger than 18 years old.

B. Qualifications of Other Staff. The qualifications of other staff include:

(1) Evidence that the staff is:

(a) Free from tuberculosis in a communicable form in accordance with Guidelines for Preventing the Transmission of *Mycobacterium tuberculosis* in Health-Care Facilities;

(b) Immune to measles, mumps, rubella, and varicella as evidenced by history of disease or vaccination; and

(c) Free from any impairment which would hinder the performance of assigned responsibilities;

(2) Having no criminal convictions or criminal history that indicates behavior that is potentially harmful to residents, as evidenced through a background check completed within 30 calendar days before employment;

(3) Having sufficient skills, education, training, and experience to serve the residents in a manner that is consistent with the philosophy of assisted living;

(4) Participating in and completing an orientation program and ongoing training to ensure that the residents receive services that are consistent with their needs and generally accepted standards of care for the specific conditions of those residents to whom staff will provide services;

(5) Receiving initial and annual training in:

(a) Fire and life safety, including the use of fire extinguishers;

(b) Infection control, including standard precautions, contact precautions, and hand hygiene;

(c) Basic food safety; and

(d) Emergency disaster plans;

(6) Completing basic first aid training taught by a first aid instructor certified by a national organization and recertification every 2 years;

(a) Licensed practical nurses and registered nurses are exempted from basic first aid training and retraining.

(7) Having training or experience in:

(a) The health and psychosocial needs of the population being served as appropriate to their job responsibilities;

(b) The resident assessment process;

(c) The use of service plans; and

(d) Resident's rights; and

(8) Holding appropriate licensure or certification as required by law.

C. With the exception of certified nursing assistants (CNAs) and geriatric nursing assistants (GNAs), if job duties involve the provision of personal care services as described in Regulation .30E of this chapter, an employee:

(1) Shall demonstrate competence to the delegating nurse before performing these services; and

(2) May work for 10 calendar days before demonstrating to the delegating nurse that they have the competency to provide these services, if the employee performing the tasks is accompanied by:

(a) A certified nursing assistant;

(b) A geriatric nursing assistant; or

(c) An individual who has been approved by the delegating nurse.

D. Basic cardiopulmonary resuscitation (CPR) training, including a hands-on component, taught by a CPR instructor certified by a nationally recognized organization shall be provided on an initial and ongoing basis to a sufficient number of staff to ensure that a trained staff member is available to perform CPR in a timely manner, 24 hours a day.

E. Relief personnel shall be available at all times in the event that the regularly scheduled staff members are unavailable. Relief personnel shall meet the requirements of §B of this regulation.

F. Proof of training shall include:

- (1) Date of class;*
- (2) Course content;*
- (3) Documentation of successful completion of the training content;*
- (4) Written, electronic, or video proof of attendee participation; and*
- (5) Signature, qualifications, and contact information of each trainer.*

G. Training with No Direct Interaction. When the training method does not involve direct interaction between faculty and participant, the assisted living program shall make available to the participant a trained individual to answer questions and respond to issues during the training.

H. Training in Cognitive Impairment, Mental Illness, and Behavioral Health.

(1) When job duties involve the provision of personal care services as described in Regulation .30E of this chapter, employees shall receive a minimum of 6 hours of initial training on cognitive impairment, mental illness, and behavioral health within the first 120 calendar days of employment.

(2) The training shall be designed to meet the specific needs of the assisted living program's population as determined by the assisted living manager, including the following, as appropriate:

(a) An overview of the following:

- (i) A description of normal aging and conditions causing cognitive impairment;*
- (ii) A description of normal aging and conditions causing mental illness;*
- (iii) Risk factors for cognitive impairment;*
- (iv) Risk factors for mental illness;*
- (v) Health conditions that affect cognitive impairment;*
- (vi) Health conditions that affect mental illness;*
- (vii) Early identification of and intervention for cognitive impairment;*
- (viii) Early identification of and intervention for mental illness; and*
- (ix) Procedures for reporting cognitive, behavioral, and mood changes;*

(b) Effective communication, including:

- (i) The effect of cognitive impairment on expressive and receptive communication;*
- (ii) The effect of mental illness on expressive and receptive communication;*
- (iii) Effective verbal, nonverbal, tone and volume of voice, and word choice techniques; and*
- (iv) Environmental stimuli and influences on communication;*

(c) Behavioral intervention, including:

- (i) Identifying and interpreting behavioral symptoms;*
- (ii) Problem solving for appropriate intervention;*
- (iii) Risk factors and safety precautions to protect the individual and other residents; and*
- (iv) De-escalation techniques;*

(d) Making activities meaningful, including:

- (i) Understanding the therapeutic role of activities;*
- (ii) Creating opportunities for productive, leisure, and self-care activities; and*
- (iii) Structuring the day;*

(e) Staff and family interaction, including:

- (i) Building a partnership for goal-directed care;*
- (ii) Understanding the needs of families; and*
- (iii) Effective communication between family and staff;*

(f) End of life care, including:

- (i) Pain management;*
- (ii) Providing comfort and dignity; and*
- (iii) Supporting the family; and*

(g) Managing staff stress, including:

- (i) Understanding the impact of stress on job performance, staff relations, and overall facility environment;*
- (ii) Identification of stress triggers;*
- (iii) Self-care skills;*
- (iv) De-escalation techniques; and*
- (v) Devising support systems and action plans.*

(3) When job duties do not involve the provision of personal care services as described in Regulation .30E of this chapter, employees shall receive a minimum of 2 hours of training on cognitive impairment, mental illness, and behavioral health within the first 120 calendar days of employment. The training shall include:

(a) An overview of the following:

- (i) A description of normal aging and conditions causing cognitive impairment;*
- (ii) A description of normal aging and conditions causing mental illness;*
- (iii) Risk factors for cognitive impairment;*
- (iv) Risk factors for mental illness;*
- (v) Health conditions that affect cognitive impairment;*

- (vi) Health conditions that affect mental illness;
- (vii) Early identification and intervention for cognitive impairment;
- (viii) Early identification and intervention for mental illness; and
- (ix) Procedures for reporting cognitive, behavioral, and mood changes;
- (b) Effective communication, including:
 - (i) The effect of cognitive impairment on expressive and receptive communication;
 - (ii) The effect of mental illness on expressive and receptive communication;
 - (iii) Effective verbal, nonverbal, tone and volume of voice, and word choice techniques; and
 - (iv) Environmental stimuli and influences on communication; and
- (c) Behavioral intervention including risk factors and safety precautions to protect the individual and other residents.
- (4) Ongoing training in cognitive impairment and mental illness shall be provided annually consisting of, at a minimum:
 - (a) 2 hours for employees whose job duties involve the provision of personal care services as described in Regulation .30E of this chapter; and
 - (b) 1 hour for employees whose job duties do not involve the provision of personal care services as described in Regulation .30E of this chapter.
- I. Training may be provided through various means, including:
 - (1) Classroom instruction;
 - (2) In-service training;
 - (3) Internet courses;
 - (4) Correspondence courses;
 - (5) Prerecorded training; or
 - (6) Other training methods approved by the Department.
- J. When the training method does not involve direct interaction between faculty and participant, the assisted living program shall make available to the participant during the training a trained individual to answer questions and respond to issues raised by the training.

.20 Personnel Records.

- The assisted living program shall maintain the following information for each staff member:
- A. Full name, age, and gender;
 - B. Address and telephone number;
 - C. Educational background;
 - D. Employment history;
 - E. Notes on references;
 - F. Performance evaluations;
 - G. Attendance records;
 - H. Individual to be notified in case of emergency;
 - I. Documentation that a criminal history records check was conducted in accordance with Health-General Article, §19-1901, Annotated Code of Maryland;
 - J. Documentation that the staff is:
 - (1) Free from tuberculosis in a communicable form in accordance with Guidelines for Preventing the Transmission of *Mycobacterium tuberculosis* in Health-Care Facilities; and
 - (2) Immune to measles, mumps, rubella, and varicella as evidenced by history of disease or vaccination;
 - K. Evidence that the annual influenza vaccine has been advised in accordance with current CDC recommendations and documented surveillance of non-immune staff when indicators of local influenza activity are elevated;
 - L. Evidence that the COVID-19 vaccine has been advised in accordance with current CDC recommendations and documented surveillance of non-immune staff when indicators of local COVID-19 activity are elevated;
 - M. Documentation of appropriate licensure or certification as required by law; **[[and]]**
 - N. Documentation of all required training and courses**[[.]]**; **and**
 - O. Documentation that a check of the federal Department of Health and Human Services, Office of the Inspector General's List of Excluded Individuals/Entities database was conducted prior to hiring.

.21 Delegating Nurse.

- A. The assisted living program shall have a current and signed agreement with a registered nurse for services of a delegating nurse and delegation of nursing tasks. If the delegating nurse is an employee of the assisted living program, the employee's job description may satisfy this requirement.
- B. The program shall maintain documentation that the delegating nurse has completed the mandatory training course developed by the Board of Nursing.
- C. Duties. The delegating nurse shall:
 - (1) Be on-site to observe each resident at least every 45 calendar days;
 - (2) Be available on call at all times as required under this chapter or have a qualified alternate delegating nurse available on call; and
 - (3) Have the overall responsibility for:
 - (a) Managing the clinical oversight of resident care in the assisted living program;

- (b) Issuing nursing or clinical orders, based upon the needs of residents;
- (c) Reviewing the assisted living manager's assessment of residents;
- (d) Appropriate delegation of nursing tasks; and
- (e) Notifying the Department:
 - (i) If the delegating nurse's contract or employment with the assisted living program is terminated; and
 - (ii) Of the reason why the contract or employment was terminated.

D. If the delegating nurse is not available to perform any duties, there shall be a qualified alternate delegating nurse available to perform those duties.

E. When an assisted living manager fails to implement nursing or clinical orders without identifying alternatives to the care or service order, the delegating nurse shall notify the resident's health care practitioner, the Department, and the resident, or, if applicable, the resident representative.

.22 Preadmission Requirements.

A. Before Move In.

(1) Before admission the assisted living manager or designee in collaboration with the delegating nurse shall determine whether:

- (a) The resident may be admitted under the assisted living program's licensure category;
- (b) Requires a level of care that the Department has approved for the assisted living program; and
- (c) The resident's needs can be met by the program.

(2) Within 30 days before admission, the assisted living manager or designee shall determine admission eligibilities described in §A(1) of this regulation based on completion of a resident assessment using the Resident Assessment Tool as described in §B of this regulation. The Department may modify the level of care determination made by the assisted living program at any time. The Resident Assessment Tool:

- (a) Determines the resident's required level of care;
- (b) Forms the basis for development of the resident's service plan; and
- (c) Determines whether the resident needs awake overnight monitoring.

B. Resident Assessment Tool.

(1) Within 30 days prior to admission, the prospective resident's health status shall be documented on the Resident Assessment Tool.

(2) Information on the Resident Assessment Tool shall be based on an examination conducted by a primary physician, certified nurse practitioner, certified registered nurse midwife, registered nurse, or physician assistant that is based on the resident's current health status.

(3) If the potential resident is admitted on an emergency basis by a local department of social services, the required assessment using the Resident Assessment Tool shall be completed as soon as possible but no later than 14 calendar days after the emergency admission.

(4) Information on the assessment shall include at a minimum:

- (a) Recent medical history, including any acute medical conditions or hospitalizations;
- (b) Significant medical conditions affecting functioning, including the individual's ability for self-care, cognition, physical condition, and behavioral and psychosocial status;
- (c) Other active and significant chronic or acute medical diagnoses;
- (d) Known allergies to foods and medications;
- (e) Medical confirmation that the individual is free from communicable tuberculosis, and other active reportable airborne communicable diseases;
- (f) Current scheduled and as needed (PRN) medications;
- (g) Current and other needed treatments and services for medical conditions and related problems;
- (h) Current nutritional status, risk factors for malnutrition and dehydration, and, if available, height and weight;
- (i) Diets ordered by a health care practitioner;
- (j) Medically necessary limitations or precautions; and
- (k) Monitoring or tests that need to be performed or followed up after admission.

C. Reassessment Documented on the Resident Assessment Tool.

(1) The Resident Assessment Tool shall be reviewed at least every 6 months and the review shall be documented by the delegating nurse and assisted living manager.

(2) A new Resident Assessment Tool shall be completed:

- (a) At least annually;
- (b) Within 48 hours, but not later than required by the resident's condition, after a significant change in a resident's condition; and
- (c) Within 48 hours of a delegating nurse's determination that a new Resident Assessment Tool needs to be completed.

(3) If the previous Resident Assessment Tool did not indicate the need for awake overnight staff, each reassessment or review of the assessment shall include documentation as to whether awake overnight staff is required due to a change in the resident's condition.

D. Functional Assessment. Within 30 calendar days before admission, the assisted living manager, or designee, shall collect on the Resident Assessment Tool the following information regarding the current condition of each resident:

- (1) Level of functioning in activities of daily living;
- (2) Level of support and intervention needed, including any special equipment and supplies required to compensate for the individual's deficits in activities of daily living;
- (3) Current physical or psychological symptoms requiring monitoring, support, or other intervention by the assisted living program;
- (4) Capacity for making personal and health care related decisions;
- (5) Presence of disruptive behaviors, or behaviors which present a risk to the health and safety of the resident or others; and
- (6) Social factors, including:
 - (a) Significant problems with family circumstances and personal relationships;
 - (b) Spiritual status and needs; and
 - (c) Ability to participate in structured and group activities, and the resident's current involvement in these activities.

E. Resident Requirements for Awake Overnight Staff.

- (1) Before admission, the assisted living manager shall ensure that the resident is assessed using the Resident Assessment Tool.
- (2) When the resident scores in any of the areas identified as "Triggers for Awake Overnight Staff" in the Resident Assessment Tool, the assisted living program shall provide awake overnight staff or document why awake overnight staff is not necessary in accordance with Regulation .14E of this chapter.

F. Short-Term Residential Care Requirements.

- (1) For persons admitted for short-term residential care, the following are required:
 - (a) Current physical condition and medical status as specified in §B(4) of this regulation;
 - (b) Functional assessment as specified in §D of this regulation; and
 - (c) A resident agreement, in accordance with Regulations .26 and .27 of this chapter.
- (2) If the person is admitted for a subsequent short-term admission, the following are required:
 - (a) Current physical condition and medical status as specified in §B(4) of this regulation;
 - (b) Functional assessment as specified in §D of this regulation; and
 - (c) A new resident agreement or an addendum to the prior resident agreement.

G. A resident admitted as an emergency placement by a local department of social services is exempt from all physical examination and assessment requirements of this regulation if the resident is in temporary emergency shelter and services status, not to exceed 14 calendar days, with notification to the Department of the placement within 48 hours.

.23 Admission Requirements.

A. Discrimination Prohibited. An assisted living program licensed under this chapter may not discriminate in admitting or providing care to an individual because of the individual's:

- (1) Race;
- (2) Color;
- (3) National origin;
- (4) Sexual orientation;
- (5) Gender identity;
- (6) Religion;
- (7) Physical disability; or
- (8) Mental disability.

B. An assisted living program may not provide services to individuals who at the time of initial admission, as established by the initial assessment, would require:

- (1) More than intermittent nursing care;
- (2) Treatment of stage three or stage four skin ulcers;
- (3) Ventilator services;
- (4) Skilled monitoring, testing, and frequent adjustment of medications and treatments where there is the presence of a fluctuating acute condition; or
- (5) Monitoring of a chronic medical condition that is not controllable through readily available medications and treatments.

C. An individual may not be admitted to an assisted living program who is:

- (1) Dangerous to the individual or others when the assisted living program would be unable to eliminate the danger through the use of appropriate treatment modalities; or
- (2) At high risk for health or safety complications which cannot be adequately managed.

D. The provisions of §§B and C of this regulation do not apply to a resident being admitted to an assisted living program when the resident is under the care of a general hospice care program licensed by the Department which ensures delivery of one or more of the services described under §§B and C of this regulation through the hospice program's plan of care.

.24 Resident-Specific Level of Care Waiver.

A. An assisted living program may request a resident-specific waiver to continue to provide services to a resident if:

- (1) The resident's level of care exceeds the level of care for which the assisted living program has authority to provide; or
- (2) The resident would require care that falls into one of the categories set forth in Regulation .23.

B. An assisted living program may not continue providing services to a resident whose needs exceed the level of care for which the licensee has authority to provide, without approval of the Department.

C. Temporary Change in Level of Care.

(1) A level of care waiver is not required for a resident whose level of care is expected to increase for a period not to exceed 30 calendar days.

(2) The assisted living program shall submit a waiver application as soon as program personnel determine that the increased level of care or the condition requiring the waiver is likely to exceed 30 calendar days.

D. When requesting a resident-specific waiver, the assisted living program shall demonstrate that:

(1) The assisted living program has the capability of meeting the needs of the resident; and

(2) The needs of other residents will not be jeopardized.

E. Approval of Waiver Request.

(1) The Department may grant a resident-specific level of care waiver, with or without conditions, if the Department determines that the:

(a) Resident's needs can be met;

(b) Needs of other residents will not be jeopardized; and

(c) Provider complies with the requirements of Regulation .47A of this chapter.

(2) *Terms of a Resident-Specific Waiver.*

(a) An approved resident-specific waiver applies only to the resident for whom the waiver was granted.

(b) The waiver no longer applies if the resident's level of care, as determined through an assessment, declines or improves to the point that the resident requires a higher or lower level of care than authorized by the waiver.

(c) When the Department grants a waiver to continue to provide services to a resident whose needs fall within one of the categories in Regulation .23, the assisted living program shall, at a minimum, comply with certain federal Medicare requirements for home health agencies referenced in 42 CFR §§484.1, 484.2, 484.40—484.80, 484.100—484.115, 484.200—484.265, and 484.300—484.375.

F. Denial of a Resident-Specific Waiver Request.

(1) The Department shall deny the request for a resident-specific waiver if the Department determines that the:

(a) Assisted living program is not capable of meeting the needs of the resident; or

(b) Needs of other residents will be jeopardized if the waiver request is granted.

(2) *The Department may not grant resident-specific waivers:*

(a) That total more than 50 percent of the assisted living program's bed capacity for residents whose needs exceed the level of care for which the assisted living program has authority to provide as specified in Regulation .04D of this chapter; or

(b) For the continuation of services to a resident whose needs fall within one of the categories set forth in .23B of this regulation, for up to 20 percent of capacity, or 20 beds, whichever is less, unless a waiver is granted by the Department.

(3) The decision of the Department may not be appealed.

(4) *The Department's denial of a resident-specific level of care waiver request:*

(a) Does not prohibit the resident from being admitted to another program that is capable of meeting the resident's needs and is licensed to provide that level of care; and

(b) Does not provide any exception to the admission restrictions set forth in .23A of this regulation.

(5) If the Department initially denies a resident-specific level of care waiver request and determines that a resident's health or safety may significantly deteriorate because of the provider's inability to provide or ensure access to care that will meet the needs of the resident, the:

(a) Denial is not subject to informal dispute resolution; and

(b) Department may direct the relocation of the resident to a safe environment.

G. The Department's Decision.

(1) The Department shall communicate the decision to grant or deny a resident-specific waiver to the assisted living manager in writing, including all appropriate supporting documentation, within 7 calendar days from receipt of the waiver request.

(2) *Dispute of a Resident-Specific Waiver.*

(a) If the resident or the resident representative disagrees with the Department's denial of a waiver request, the resident or, as applicable, the resident representative may dispute the Department's decision by:

(i) Submitting a written request to the Department within 7 calendar days after receipt of the Department's denial; and

(ii) Including in the written request the reasons why the Department's denial may be incorrect.

(b) The Department shall consider the request and notify the resident or the resident representative within 7 calendar days of receipt of the request whether or not the Department's decision to deny a level of care waiver is sustained.

(c) The Department's decision from the dispute is not:

(i) A contested case as defined in State Government Article, §10-202(d), Annotated Code of Maryland; or

(ii) Subject to further appeal.

(d) In making a decision to sustain or change the decision to deny a waiver request, the Department shall consider, among other factors, whether the:

(i) Granting of waivers has resulted in one or more residents having experienced a decline in their physical, functional, or psychosocial well-being; and

(ii) Decline in the residents' condition might have been prevented had the waivers not been granted.

(e) If the Department sustains the decision to deny the waiver request, the Department shall notify the assisted living program of what action is required, including, but not limited to:

(i) Revocation of some or all of the resident-specific waivers which have been granted; or

- (ii) *A change in licensure category.*
- (f) *Decision to Sustain the Denial of Waiver Request.*
 - (i) *Upon notification of the decision to sustain the denial of waiver, the assisted living program shall submit a response with an appropriate plan of action for approval by the Department.*
 - (ii) *If the Department does not approve the assisted living program's plan of action, the Department shall notify the assisted living program that one or more resident-specific waivers are revoked or that a change in licensure status is required.*
 - (iii) *The determination to sustain the denial of waiver request may not be appealed.*
 - (iv) *Failure of the assisted living program to comply with the Department's decision is grounds for the imposition of sanctions.*

H. The Department shall, during a survey or other inspection, or when a resident-specific level of care waiver request is made, review the number of resident-specific waivers an assisted living program holds to ensure that the assisted living program continues to be able to provide appropriate care to all of its residents and to ensure that the current licensure category is appropriate. The Department shall notify the assisted living program if, at any time, the Department determines that:

- (1) *The assisted living program is not providing appropriate care to its residents because of the number of resident-specific waivers it holds; or*
- (2) *The number of resident-specific waivers an assisted living program holds necessitates a change in licensure category.*

.25 Payment of Funds Before Admission.

If an assisted living program requires payment of funds before admission, the funds shall be fully refundable unless the assisted living program discloses, in writing, what portion is not refundable.

.26 Resident Agreement — General Requirements and Nonfinancial Content.

A. Except as otherwise provided under §E of this regulation, for a person admitted for other than short-term residential care, the resident or the resident agent and the assisted living manager or their designee shall sign, before or at the time of admission, a resident agreement that:

- (1) *Is a clear and complete reflection of commitments agreed to by the parties, and the actual practices that will occur in the assisted living program;*
- (2) *Is accurate, precise, easily understood, legible, readable, and written in plain English;*
- (3) *Conforms to all relevant State and local laws and requirements in effect when the agreement is executed; and*
- (4) *Recommends review of the agreement by an attorney or other representative chosen by the resident.*

B. For a person admitted for short-term residential care, the resident or the resident agent and the assisted living manager or their designee shall sign, before or at the time of admission, a resident agreement as set forth in this regulation excluding the provisions of §D(9)(c) and 8(d) and (e) of this regulation.

C. The assisted living program shall:

- (1) *Give a copy of the signed resident agreement to the resident and the resident agent;*
 - (2) *Maintain a copy of the resident agreement on-site; and*
 - (3) *Make the resident agreement available for review by the Department or its designee.*
- D. The resident agreement shall include, at a minimum, the following provisions:*
- (1) *A statement of the level of care for which the assisted living program is licensed;*
 - (2) *The level of care needed by the resident, as determined by the initial assessment required by Regulation .05 of this chapter;*
 - (3) *Unless the assisted living program is part of a continuing care retirement community and the agreement is signed by a continuing care subscriber as defined in COMAR 32.02.01.01B, a statement indicating that if a resident's level of care, after admission, exceeds the level of care for which the assisted living program is permitted to provide and a waiver for the continued stay of the resident has not been granted, the assisted living program shall discharge the resident from the program;*
 - (4) *If the assisted living program is part of a continuing care retirement community and a separate, concurrent resident agreement is signed by a continuing care subscriber as defined in COMAR 32.02.01.01B, a statement indicating that if the resident's level of care, after admission to assisted living, exceeds the level of care for which the assisted living program is permitted to provide and a waiver for the continued stay of the resident has not been granted:*
 - (a) *The assisted living program may not provide any services to the resident beyond that which it is licensed to provide;*
 - (b) *If the assisted living program offers either comprehensive care services, or priority access to comprehensive care services, and a comprehensive care bed is available for occupancy, the resident shall be given the option to transfer to comprehensive care; and*
 - (c) *The resident may be discharged from the continuing care retirement community only for just cause as set forth in COMAR 32.02.01.31B;*
 - (5) *A listing of services provided by the assisted living program and a listing of personal care and health care services the assisted living program does not provide;*
 - (6) *An explanation of the assisted living program's complaint or grievance procedure;*
 - (7) *A policy on resident self-administration of medications;*
 - (8) *A policy on the administration of medications to a resident by a spouse or domestic partner who is also a resident of the assisted living program;*
 - (9) *Occupancy provisions, including:*
 - (a) *Policies regarding bed and room assignment, including the specific room and bed assigned to the resident at the time of admission;*

- (b) Policies for temporary or permanent changes to the resident's accommodations, including:
 - (i) Relocating the resident within the facility;
 - (ii) Making a change in roommate assignment; or
 - (iii) Increasing or decreasing the number of individuals occupying a room;
- (c) Procedures for transferring the resident to another facility;
- (d) The availability of locks for storage;
- (e) The availability of locks, if any, for the resident's room;
- (f) Security procedures which the assisted living program shall implement to protect the resident and the resident's property;
- (g) The staff's right, if any, to enter a resident's room;
- (h) The resident's rights and obligations concerning use of the facility, including common areas;
- (i) If non-residents live on the premises, the assisted living program shall disclose what parts of the licensed space they are permitted in and during what hours;
- (j) Provisions for continuous service in the event of an emergency;
- (k) An acknowledgment that the resident or the resident representative has reviewed all assisted living program rules, requirements, restrictions, or special conditions that the assisted living program will impose on the resident; and
- (l) The assisted living program's bed hold policy in case of unavoidable or optional absences such as hospitalizations, recuperative stays in other settings, or vacation, including:
 - (i) The conditions under which the assisted living program will hold a bed;
 - (ii) Relevant time frames;
 - (iii) Payment terms;
 - (iv) The circumstances under which the program will no longer hold the bed; and
 - (v) The period of time during which the resident is permitted to return and resume residence in the facility;
- (10) Admission and discharge policies and procedures, including:
 - (a) Any additional admission requirement imposed by the assisted living program;
 - (b) Those actions, circumstances, or conditions which may result in the resident's discharge from the assisted living program;
 - (c) The procedures which the assisted living program shall follow to verify that the receiving program or facility has the required license to operate that type of program or facility;
 - (d) The procedures which the assisted living program shall follow when discharging a resident without the resident's consent, except in the case of a health emergency or substantial risk to other residents, including:
 - (i) The termination of the resident agreement on discharge; and
 - (ii) At least 30 calendar days written notice to the resident or resident representative before the effective date of the discharge;
 - (e) Procedures that the assisted living program shall follow when discharging, without 30 calendar days notice, a hospitalized resident whose medical needs have advanced beyond the level of care for which the assisted living program is licensed to provide. The procedures shall include at a minimum:
 - (i) A statement that a transfer to the hospital is not grounds for discharge; and
 - (ii) A requirement that the delegating nurse shall perform and document a nursing assessment of the resident's condition at the hospital to determine if the resident can safely return to the facility;
 - (f) Procedures that the resident shall follow when terminating the resident agreement;
 - (g) A statement that the resident or resident representative shall give at least 30 calendar days notice to the assisted living program before the effective date of termination except in the case of a health emergency;
 - (h) Procedures the assisted living program shall follow when a multiple person unit is vacated by one resident due to discharge or death, including provisions:
 - (i) For termination of the agreement; and
 - (ii) Appropriate refunds;
- (11) Obligations of the licensee, the resident, or the resident representative as to:
 - (a) Arranging for or overseeing medical care; and
 - (b) The monitoring of the health status of the resident;
- (12) Adult medical day care policies and availability; and
- (13) Any arrangements the resident has made, or wishes to make, with regard to burial, including, but not limited to:
 - (a) Financial;
 - (b) Religion preferred funeral director, if any; and
 - (c) The name, address, and relationship of any person who has agreed to claim the body of the resident or who has agreed to assume funeral or burial responsibility.

E. If the services provided in an assisted living program that is part of a continuing care retirement community are covered under a continuing care agreement that complies with Human Services Article, Title 10, Subtitle 4, and Health-General Article, §19-1806, Annotated Code of Maryland:

- (1) The Department may not require a separate resident agreement for the assisted living program; and
- (2) The requirements set forth in this regulation and Regulation .27 of this chapter do not apply.

F. The assisted living program may not include a provision in the agreement which is inconsistent with any of the requirements of this chapter.

.27 Resident Agreement — Financial Content.

A. The resident agreement shall include financial provisions, which include at a minimum:

- (1) Obligations of the assisted living program and the resident, or the resident agent, as to:*
 - (a) Handling the finances of the resident;*
 - (b) The purchase or rental of essential or desired equipment and supplies;*
 - (c) Arranging and contracting for services not covered by the resident agreement;*
 - (d) Ascertaining the cost of and purchasing durable medical equipment; and*
 - (e) Disposition of resident property upon discharge or death of the resident; and*
- (2) Rate structure and payment provisions covering:*
 - (a) All rates to be charged to the resident, including, but not limited to:*
 - (i) Service packages;*
 - (ii) Fee for service rates; and*
 - (iii) Any other non-service-related charges;*
 - (b) Notification of the rate structure applicable for other levels of care provided by the assisted living program and the criteria to be used for imposing additional charges for the provision of additional services, if the resident's service and care needs change;*
 - (c) Payment arrangements and fees, if known, for third-party services not covered by the resident agreement, but arranged for by either the resident, the resident agent, or the assisted living program;*
 - (d) Identification of the persons responsible for payment of all fees and charges and a clear indication of whether the person's responsibility is or is not limited to the extent of the resident's funds;*
 - (e) A provision which provides at least 45 calendar days notice of any rate increase, except if necessitated by a change in the resident's medical condition;*
 - (f) Fair and reasonable billing, payment, and credit policies;*
 - (g) The procedures the assisted living program will follow in the event the resident or resident agent can no longer pay for services provided for in the resident agreement or for services or care needed by the resident, including 30 calendar days notice of the resident's discharge to the:*
 - (i) Ombudsman within the Department of Aging or local area agency on aging; and*
 - (ii) Local Department of Human Services or Adult Protective Services; and*
 - (h) Terms governing the refund of any prepaid fees or charges, in the event of a resident's discharge from the assisted living program or termination of the resident agreement.*

B. When the resident's needs significantly change and the level of service provided needs to be increased or decreased, the resident agreement shall be amended by the parties to reflect the changes in services being provided and any applicable increase or decrease in charges.

C. Charges that incur after the death of the resident may not include services provided to the resident after their death, but may include administrative charges.

.28 Service Plan.

A. Service Plan Development.

- (1) The assisted living manager, or designee, shall ensure that all services are provided in a manner that respects and enhances the dignity, privacy, and independence of each resident.*
- (2) A service plan for each resident shall be developed in a manner that enhances the principles of dignity, privacy, resident choice, resident capabilities, individuality, and independence without compromising the health or reasonable safety of other residents.*
- (3) The resident shall be invited to participate in the development of the initial service plan and any subsequent service plans.*
- (4) At the resident's request, a resident representative, family member, or other individual shall be invited to participate in all service plan meetings.*
- (5) When the resident lacks the capacity to participate, the resident representative, as applicable to their authority, shall be invited to participate in all service plan meetings.*
- (6) The assisted living program shall accommodate the schedules of participants in a service plan meeting when possible.*

B. Assessment of Condition.

- (1) The resident's service plan shall be based on an assessment of the resident's health, function, behavioral, and psychosocial status using the Resident Assessment Tool and the nursing assessment.*
- (2) A full assessment of the resident shall be completed:*
 - (a) Within 48 hours but not later than required by nursing practice and the patient's condition after:*
 - (i) A significant change of condition; and*
 - (ii) Each nonroutine hospitalization; and*
 - (b) At least annually.*
- (3) When the delegating nurse determines in the nurse's clinical judgment that the resident does not require a full assessment within 48 hours, the delegating nurse shall:*
 - (a) Document the determination and the reasons for the determination in the resident's record; and*

(b) Ensure that a full assessment of the resident is conducted within 7 calendar days.

(4) A review of the assessment shall be conducted every 6 months for residents who do not have a change in condition. Further evaluation by a health care practitioner is required and changes shall be made to the resident's service plan, if there is a score change in any of the following areas:

- (a) Cognitive and behavioral status;
- (b) Ability to self-administer medications; and
- (c) Behaviors and communication.

(5) If the resident's previous assessment did not indicate the need for awake overnight staff, each full assessment or review of the full assessment shall include documentation as to whether awake overnight staff is required due to a change in the resident's condition.

C. *Special Care Needs.* The service plan shall reflect increased monitoring, intervention, and oversight, as clinically appropriate for special care needs, including:

- (1) Fall risk or frequent falls;
- (2) Pressure ulcer risk, prevention, and treatment;
- (3) Diabetes management;
- (4) Oxygen therapy;
- (5) Enteral feedings;
- (6) Foley catheter care;
- (7) Ostomy care;
- (8) Therapeutic medication levels;
- (9) Mental illness; and
- (10) Behaviors that are likely to disrupt or harm the resident or others.

D. The assisted living manager, or designee, shall ensure that:

(1) A written service plan or other documentation sufficiently recorded in the resident's record is developed by staff, which at a minimum addresses:

- (a) The services to be provided to the resident, which are based on the assessment of the resident;
 - (b) When and how often the services are to be provided; and
 - (c) How and by whom the services are to be provided;
- (2) The service plan is developed within 30 calendar days of admission to the assisted living program; and
- (3) The service plan is reviewed by staff at least every 6 months, and updated, if needed, unless a resident's condition or preferences significantly change, in which case the assisted living manager or designee shall review and update the service plan sooner to respond to these changes.

.29 Resident Record.

A. The assisted living manager shall ensure that an individual record or log is maintained at the assisted living program for each resident in a manner that ensures security and confidentiality, and which includes at a minimum:

- (1) Resident Assessment Tools;
- (2) Nursing assessments;
- (3) Medical orders;
- (4) Service plans;
- (5) Care notes;
- (6) Emergency data sheet;
- (7) Applicable advance directive and mental health advance directive;
- (8) Maryland Medical Orders for Life-Sustaining Treatment (MOLST) form;
- (9) Monthly weights or, in accordance with the health care practitioner's orders for weights, more or less frequently;
- (10) Pharmacy reviews, if appropriate;
- (11) Rehabilitation plans, if appropriate; and
- (12) Any other records related to the care and services provided to the resident.

B. *Readmission of a Resident.*

(1) A resident shall be reassessed by the delegating nurse within 48 hours of readmission to the program if the following occurs:

- (a) Hospitalizations or a 15-day or longer stay in any skilled facility; or
 - (b) There is a significant change in the resident's mental or physical status upon return to the program after an absence from the program.
- (2) When the delegating nurse determines in the nurse's clinical judgment that the resident does not require a full assessment within 48 hours, the delegating nurse shall:
- (a) Document the determination and the reasons for the determination in the resident's record; and
 - (b) Ensure that a full assessment of the resident is conducted within 7 calendar days.

C. The assisted living manager shall develop policies and procedures to ensure that all information relating to a resident's condition or preferences, including any significant change as defined in Regulation .02B(81) of this chapter, is documented in the resident's record and communicated in a timely manner to:

- (1) The resident;

- (2) The resident representative, as appropriate; and
- (3) Health care practitioners and staff who are involved in the development and implementation of the resident's service plan, as appropriate.

D. Resident Care Notes.

- (1) Appropriate staff shall write care notes for each resident:
 - (a) On admission;
 - (b) At least weekly;
 - (c) With any significant changes in the resident's condition, including when incidents occur and any follow-up action is taken;
 - (d) When the resident is transferred from the facility to another health care facility;
 - (e) On return from medical appointments;
 - (f) When seen in the facility by any health care practitioner or health care provider;
 - (g) On return from nonroutine leaves of absence; and
 - (h) When the resident is discharged permanently from the facility, including the location and manner of discharge.
- (2) Staff shall write care notes that are individualized, legible, dated, timed, and signed by the writer.

E. The assisted living program shall maintain a resident's record for 5 years after the resident is discharged.

F. If an assisted living program ceases operation, the assisted living program shall make arrangements to retain records as required by §E of this regulation.

G. If the assisted living program changes ownership, the prior owner shall provide all written and electronic records of current residents to the new owner in a usable format prior to the issuance of the new license.

H. An assisted living program shall:

- (1) Maintain the privacy and confidentiality of a resident's medical records and medical information;
- (2) Release medical records or medical information about a resident only with the consent of the resident or resident representative, or as permitted by Health-General Article, Title 4, Subtitle 3, Annotated Code of Maryland; and
- (3) Maintain and dispose of a resident's medical records in accordance with Health-General Article, Title 4, Subtitle 3, Annotated Code of Maryland.

.30 Services.

A. Meals.

- (1) The assisted living manager shall ensure that:
 - (a) A resident is provided three meals in a common dining area and additional snacks during each 24-hour period, 7 days a week;
 - (b) Meals and snacks are well-balanced, varied, palatable, properly prepared, and of sufficient quality and quantity to meet the daily nutritional needs of each resident with specific attention given to the preferences and needs of each resident;
 - (c) At a minimum, residents have access to snacks or food supplements between breakfast and lunch, between lunch and dinner, and during the evening hours;
 - (d) All food is prepared in accordance with all State and local sanitation and safe food handling requirements;
 - (e) Food preparation areas are maintained in accordance with all State and local sanitation and safe food handling requirements; and
 - (f) Portion sizes are in accordance with orders from a health care practitioner.
- (2) The assisted living program shall ensure that menus are nutritionally adequate by having a dietitian or nutritionist review the 4-week menu:
 - (a) Prior to initial licensure;
 - (b) If substantive changes beyond accepted food substitutions have been made; and
 - (c) At least every 3 years.
- (3) Menus.
 - (a) Menus shall be written at least 1 week in advance.
 - (b) The assisted living program shall post a weekly menu in a conspicuous place that is visible to residents and other interested parties.
 - (c) Menus shall be maintained on file, as served, for 6 months.
- (4) Special Diets.
 - (a) The assisted living program staff shall:
 - (i) Prepare or arrange for the provision of special diets as ordered by the resident's health care practitioner or as needed by the resident's condition; and
 - (ii) Document special diets in the resident's record.
 - (b) If the diet is beyond the capability of the assisted living program, the resident or the resident's health care practitioner shall make other arrangements for the resident's care, or the assisted living program shall discharge the resident.

B. Monitoring. The assisted living manager shall ensure that each resident is monitored on a daily basis to ensure that the resident's service plan is being properly implemented.

C. Adaptive Equipment and Assistive Devices.

- (1) The assisted living manager or their designee shall ensure that all adaptive equipment and assistive devices are in proper working order.

(2) The assisted living manager or designee shall facilitate the repair or replacement of adaptive equipment and assistive devices, as needed.

(3) Assisted living staff shall assist the resident, as needed, to utilize the adaptive equipment and assistive devices.

D. Nursing Services. The assisted living manager, in consultation with the delegating nurse, shall ensure that all nursing services are provided consistent with the Nurse Practice Act, Health Occupations Article, Title 8, Annotated Code of Maryland.

E. Personal Care Services. The assisted living manager shall provide or ensure the provision of all necessary personal care services, including, but not limited to, the range of assistance needed by a resident to complete the activities of daily living as defined in Regulation .02B(2) of this chapter.

F. Housekeeping Services. The assisted living manager shall ensure that:

(1) Housekeeping services are provided; and

(2) All areas of the facility are maintained in a clean and orderly condition.

G. Health Care and Social Services. The assisted living manager is responsible for facilitating access to any appropriate health care and social services for the resident as determined in the resident's assessment, including, but not limited to:

(1) Social work services;

(2) Rehabilitative services, including occupational, physical, speech, and audiology therapies;

(3) Home health services;

(4) Hospice services;

(5) Skilled nursing services;

(6) Health care practitioner services;

(7) Oral health care;

(8) Dietary consultation and services;

(9) Counseling;

(10) Psychiatric services;

(11) Psychological services; and

(12) Other specialty health services.

H. Social and Recreational Activities.

(1) In accordance with the resident's service plan, the assisted living program staff shall encourage resident participation in social and recreational activities, including:

(a) Providing or arranging for transportation to these activities in accordance with the resident's service plan; and

(b) Assisting a resident with communication, interpersonal, and social skills, including managing difficult behaviors in accordance with the resident's service plan.

(2) The assisted living manager shall provide or arrange appropriate opportunities for socialization, social interaction, and leisure activities that reflect the resident's preferences and promote the physical and mental well-being of each resident.

I. Spiritual Activities.

(1) The assisted living manager or designee shall facilitate access to spiritual and religious activities consistent with the preferences and beliefs of the resident.

(2) The assisted living manager or designee shall provide or arrange for transportation to spiritual and religious activities in accordance with the resident's service plan.

.31 Medication Management and Administration.

A. All unlicensed staff who will administer medications to residents shall have first completed the medication administration course that is taught by a registered nurse who is approved by the Maryland Board of Nursing to teach the certified medication technician course.

B. The assisted living manager shall document completion of the medication technician training and certification as a medication technician by the Maryland Board of Nursing per COMAR 10.39.04 in the personnel file or other readily available record of each unlicensed staff member who administers medications.

C. All medications shall be administered consistent with applicable requirements of COMAR 10.27.11.

D. Self-Administration of Medication.

(1) An assisted living manager shall ensure that the resident's initial assessment process identifies whether a resident:

(a) Is capable of self-administration of medication;

(b) Is capable of self-administration of medication, but requires a reminder to take medications or physical assistance with opening and removing medications from the container, or both; or

(c) Requires that medications be administered by the assisted living program staff or by a spouse or domestic partner of the resident in accordance with §E of this regulation.

(2) For a resident who is capable of self-administration or, although capable, requires a reminder or physical assistance, as stated in §D(1)(b) of this regulation, the assisted living manager shall ensure that the resident is reassessed by the delegating nurse quarterly for the ability to safely self-administer medications with or without assistance.

E. Administration of Medication by a Spouse or Domestic Partner. While residing in the same assisted living program as their spouse or domestic partner, a resident may administer medications to their spouse or domestic partner providing the following documentation is maintained in the resident's record:

(1) An initial assessment by their health care practitioner documenting the resident's competency and ability to safely administer medications to their spouse or domestic partner;

(2) Quarterly assessments by the delegating nurse documenting the resident's continued ability to safely administer medications to their spouse or domestic partner; and

(3) Current signed medical orders.

F. Medication Regimen Review Upon Admission.

(1) The assisted living manager shall consult within 14 calendar days of a resident's admission with the individuals set forth in §F(2) of this regulation to review a new resident's medication regime.

(2) The medication review may be conducted by a:

(a) Health care practitioner;

(b) Registered nurse, who may be the delegating nurse; or

(c) Licensed pharmacist.

G. The purpose of the medication regimen review required by §F of this regulation is to review with the assisted living manager or designee:

(1) A resident's current medication profile, including all prescription and nonprescription over-the-counter medications and tube feedings;

(2) The potential that current medications have to act as a chemical restraint;

(3) The potential for any side effects;

(4) The potential for adverse drug interactions; and

(5) Any medication errors that have occurred since admission.

H. The assisted living manager, or designee, shall ensure that the medication regimen review required by §F of this regulation is documented in the resident's records, including any recommendations given by the reviewer.

I. Pharmacy Review.

(1) The assisted living manager shall arrange for a licensed pharmacist to conduct an on-site review of health care practitioner prescriptions, health care practitioner orders, and resident records at least every 6 months for any resident receiving nine or more medications, including over-the-counter and as needed (PRN) medications.

(2) The pharmacist's review shall include, but is not limited to, whether:

(a) The assisted living program is in compliance with Board of Pharmacy's requirements for packaging of medications;

(b) Each resident's medications are properly stored and maintained;

(c) Each resident receives the medications that have been specifically prescribed for that resident in the manner that has been ordered;

(d) The desired effectiveness of each medication is achieved based on available information, and, if not, that the appropriate authorized prescriber is so informed;

(e) Any undesired side effects, potential and actual adverse drug reactions, and medication errors are identified and reported to the appropriate authorized prescriber;

(f) The resident has a medical condition as documented in the resident's records that is not currently being treated by medication;

(g) There is medication use without current indication in the resident's records of a medical condition that warrants the use of the medication;

(h) There is medication overuse that is causing side effects as documented in the resident records;

(i) Current medication selections result in inappropriate medication dosage;

(j) The resident may be experiencing drug interactions;

(k) The resident is receiving medication, either prescribed or over-the-counter medications, as well as herbal remedies that could result in drug-drug, drug-food, or drug-laboratory test interactions;

(l) Administration times of medication need to be modified to address drug interactions or meal times, or both;

(m) Periodic diagnostic monitoring required by certain medications have been performed; and

(n) More cost-effective medications are available to treat current medical conditions.

(3) The pharmacist shall document the pharmacy review as required under this section in each resident's chart and this documentation shall be reviewed every 6 months as part of the assisted living program's quality assurance activities as required in Regulation .13 of this chapter.

J. The person conducting the on-site review under §F or G of this regulation shall recommend changes, as appropriate, to the appropriate authorized prescriber and the assisted living manager or designee.

K. If a resident requires that staff administer medications as defined in Regulation .02B(3) of this chapter, and the administration of medications has been delegated to an unlicensed staff person pursuant to COMAR 10.27.11, the assisted living manager shall comply with COMAR 10.27.11 by arranging for an on-site review by the delegating registered nurse at least every 45 calendar days. The delegating nurse shall make appropriate recommendations to the appropriate authorized prescriber, and the assisted living manager or designee.

L. Safe Storage of Medication. The assisted living manager, or designee, shall ensure that:

(1) Medications are stored in the original dispensed container;

(2) Medications are stored in a secure location, at the proper temperature; and

(3) The following documentation is maintained for all prescription and over-the-counter medications prescribed to residents:

(a) Name of the resident;

(b) Name of the medication;

(c) Reason for the medication;

- (d) Dose;
- (e) Frequency;
- (f) Route;
- (g) Authorized prescriber's name;
- (h) Date of issuance;
- (i) Expiration date;
- (j) Refill limits; and
- (k) Directions for use.

M. Medications and treatments shall be administered consistent with current signed medical orders and using professional standards of practice.

N. Only sealed, unopened medication packages or individual unit dose blisters may be returned to the inventory of the pharmacy.

O. Required Documentation.

(1) A staff member shall record the documentation required under §L of this regulation for all residents for whom medications are administered, or who receive assistance in taking their medications, as defined by Regulation .02B(3)(b) of this chapter, at the time that the resident takes or receives medications.

(2) A staff member shall record the documentation required under §L of this regulation for residents who self-administer:

- (a) Upon admission; or
- (b) When changes in the resident's medication regimen are ordered by a health care practitioner.

P. Accounting for Narcotic and Controlled Substances.

(1) A qualified staff member and a witness shall count and record Schedule II through V controlled substances before the close of every shift.

(2) The daily record shall account for all controlled substances documented as administered on the medication administration record.

(3) All Schedule II through V controlled substances shall be maintained under a double lock system.

(4) As required, the assisted living program shall obtain a Controlled Dangerous Substances registration certificate from the Department's Office of Controlled Substances Administration.

(5) The assisted living manager shall develop written policies and procedures to guard against theft and diversion of controlled substances, that include:

- (a) Proper storage;
- (b) Accountability;
- (c) Access;
- (d) Destruction; and
- (e) Reporting procedures.

(6) Controlled substances may not be returned to the pharmacy.

(7) Controlled substances in need of disposal shall be destroyed on-site at the assisted living program and their destruction shall be:

(a) Conducted by two members of the staff, one of whom shall be a licensed practitioner, licensed pharmacist, registered nurse, licensed practical nurse, certified medication technician, or licensed assisted living manager; and

(b) Recorded on a form supplied by the Division of Drug Control, a copy of which shall be forwarded to the Division within 10 calendar days of destruction.

.32 Alzheimer's Special Care Unit.

A. Initial Approval of an Alzheimer's Special Care Unit. An assisted living program requesting the initial approval to operate an Alzheimer's Special Care Unit shall submit to the Department a written description of the Alzheimer's Special Care Unit using a disclosure form developed by the Department. The description shall explain how:

(1) The form of care and treatment provided by the Alzheimer's Special Care Unit is specifically designed for the specialized care of individuals diagnosed with Alzheimer's disease or a related dementias; and

(2) The care in the Alzheimer's Special Care Unit differs from the care and treatment provided in the nonspecial care unit.

B. Approval of an Alzheimer's Special Care Unit.

(1) An assisted living program shall have written approval from the Department prior to operating an Alzheimer's Special Care Unit.

(2) An assisted living program shall have written approval from the Department of an Alzheimer's Special Care Unit prior to advertising or marketing the unit.

(3) The Department will either approve or not approve the operation of the Alzheimer's Special Care Unit.

C. Substantive Changes to the Alzheimer's Special Care Unit.

(1) The written description of the Alzheimer's Special Care Unit shall accurately reflect the current operation of the unit.

(2) If any substantive changes are made to the Alzheimer's Special Care Unit, the revised written description shall be submitted to the Department for review and approval.

(3) The Department shall inform the provider of the decision of the review within 30 calendar days from the Department's receipt of the revised written description.

D. An assisted living program with an Alzheimer's Special Care Unit shall disclose the written description of the unit to:

- (1) Any person on request;

- (2) The resident, as appropriate; and
- (3) The family or resident representative before admission of the resident to the Alzheimer's Special Care Unit.

E. The description of the Alzheimer's Special Care Unit shall include:

- (1) A statement of philosophy or mission;
- (2) How the services of the unit are different from services provided in the rest of the assisted living program;
- (3) Staff training and staff job titles, including:
 - (a) A description of a minimum of 6 hours of advanced cognitive impairment training for any staff who is licensed, certified, or registered under Health Occupations Article, Annotated Code of Maryland, or any staff whose job duties include providing personal care on the Alzheimer's Special Care Unit, including:
 - (i) 2 hours related to effective communication;
 - (ii) 2 hours related to behavioral interventions; and
 - (iii) 2 hours related to making activities meaningful; and
 - (b) The number of hours of dementia-specific training provided annually for all staff by job classification and a summary of training content;
- (4) Admission procedures, including screening criteria;
- (5) Assessment and service planning protocol, including criteria to be used that would trigger a reassessment of the resident's status before the customary 6-month review;
- (6) Staffing patterns, including:
 - (a) The ratio of direct care staff to resident for a 24-hour cycle;
 - (b) A description of how the staffing pattern differs from that of the rest of the assisted living program; and
 - (c) Use of awake overnight staff on the unit;
- (7) A description of the physical environment and any unique design features appropriate to support the functioning of cognitively impaired individuals;
- (8) A description of activities, including frequency and type, how the activities meet the needs of residents with dementia, and how the activities differ from activities for residents in other parts of the assisted living program;
- (9) The assisted living program's fee or fee structure for services provided by the Alzheimer's Special Care Unit;
- (10) Discharge criteria and procedures;
- (11) Any services, training, or other procedures that are over and above those that are provided in the existing assisted living program; and
- (12) Any other information that the Department may require.

F. The Department shall restrict admission or close the operation of an Alzheimer's Special Care Unit if the Department determines that the assisted living program has not demonstrated compliance with this regulation or the health or safety of residents is at risk.

.33 Incident Reports.

A. Staff of the assisted living program shall complete an incident report within 24 hours of having knowledge that an incident, as defined in Regulation .02B(39) of this chapter, occurred.

B. The assisted living program shall make incident reports available on the premises to the Department and any government agency designated by the Department.

C. All incident reports shall include:

- (1) Time, date, and place;
- (2) Individuals present;
- (3) Complete description of the incident;
- (4) Response of the staff at the time; and
- (5) Notification to the:
 - (a) Resident or, if appropriate, the resident representative;
 - (b) Resident's health care practitioner, if appropriate;
 - (c) Delegating nurse;
 - (d) Licensing or law enforcement authorities, when appropriate; and
 - (e) Follow-up activities, including investigation of the occurrence and steps to prevent its reoccurrence.

D. The assisted living program shall notify the OHCQ within 24 hours of a resident death resulting from:

- (1) Abuse;
- (2) Neglect;
- (3) Wandering;
- (4) Elopement;
- (5) A medication error;
- (6) Burns; or
- (7) Any injury incurred at the assisted living program.

.34 Relocation and Discharge.

A. Relocation within the Facility.

(1) The assisted living program may not relocate a resident within the facility except in accordance with the terms and conditions of the resident agreement.

(2) An assisted living program shall notify a resident and the resident representative at least 5 calendar days before a nonemergency relocation within the facility and obtain the consent of the resident or resident representative.

(3) An assisted living program shall document in the resident's record how the requirements of this regulation have been met.

B. Discharge.

(1) Discharge of a resident or transfer to another facility or address without the consent of the resident or the resident representative shall be in accordance with the resident agreement.

(2) An assisted living program shall notify a resident or the resident representative within 30 calendar days before a non-emergency discharge.

(3) In the event of an emergency, the program shall notify the resident or the resident representative as quickly as possible and document the reason for the emergency and abbreviated notice.

C. The assisted living program shall consider the resident's specific care needs and preferences in developing a safe and appropriate discharge plan.

D. When the resident is discharged to another facility, the assisted living program shall provide to the receiving facility any information related to the resident that is necessary to ensure continuity of care and services, including, at a minimum, the:

- (1) Emergency data sheet;
- (2) Current medication and treatment orders;
- (3) Medication administration records; and
- (4) Most current Resident Assessment Tool.

E. When the resident is discharged to home or to a non-facility setting, the assisted living program shall provide the resident and resident representative any information related to the resident that is necessary to ensure continuity of care and services, including, at a minimum, the:

- (1) Emergency data sheet;
- (2) Current medication and treatment orders;
- (3) Medication administration records; and
- (4) Most current Resident Assessment Tool.

F. In the event of a health emergency requiring the transfer to an acute care facility, a copy of an emergency data sheet shall accompany the resident to an acute care facility. This data sheet shall, at a minimum, include:

- (1) The resident's full name, date of birth, Social Security number, if known, and insurance information;
- (2) The name, telephone number, and address of the resident representative;
- (3) The name and telephone number of the resident's health care practitioner;
- (4) The resident's current documented diagnoses;
- (5) Current medications prescribed for the resident;
- (6) The resident's known allergies to food or medications, if any;
- (7) The resident's dietary restrictions, if any;
- (8) Any relevant information concerning the event that precipitated the emergency; and
- (9) Appended copies of:
 - (a) Advance directives;
 - (b) Maryland Medical Orders for Life-Sustaining Treatment (MOLST) form;
 - (c) Powers of attorney, if any; and
 - (d) Guardianship orders, if any.

G. Within 30 calendar days of the date of discharge, the assisted living program shall:

- (1) Give each resident or resident agent:
 - (a) A final statement of account; and
 - (b) Any refunds due; and
- (2) Return any money, property, or valuables held in trust or custody by the assisted living program.

H. If requested by a resident, a resident representative, a governmental agency, or, on its own initiative, the Office of the Attorney General may:

- (1) Investigate whether an abuse of a resident's funds contributed to the decision to discharge the resident; and
- (2) Make appropriate referrals of the matter to other government agencies.

.35 Resident Representative.

A. An assisted living program shall recognize the applicable authority of:

- (1) A guardian of the person under Estates and Trusts Article, §13-705, Annotated Code of Maryland;
- (2) A guardian of the property under Estates and Trusts Article, §13-201, Annotated Code of Maryland;
- (3) An advance directive that meets the requirements of Health-General Article, §5-602, Annotated Code of Maryland;
- (4) A surrogate decision maker with authority under Health-General Article, §5-605, Annotated Code of Maryland;
- (5) A power of attorney that meets the requirements under Estates and Trusts Article, Title 17, Annotated Code of Maryland;
- (6) A representative payee or other similar fiduciary; and
- (7) Any other person, if that person was designated by a resident who was competent at the time of designation, and the resident or representative has provided the assisted living program with documentation of the designation.

B. Representative Payee or Other Similar Fiduciary.

(1) An assisted living program staff member who serves as a representative payee for a resident may not be considered the resident representative.

(2) An assisted living program shall notify the Department if an assisted living program staff member is designated as the representative payee for a resident.

C. An assisted living program shall document in the resident's record the name of the person, if any, with the authority identified in §A of this regulation or include the documentation in the record.

D. An assisted living program may not recognize the authority of a resident representative if the representative attempts to exceed the authority:

(1) Stated in the instrument that grants the representative authority; or

(2) Established by federal or State law.

E. An assisted living program who commits financial exploitation of a resident shall be in violation of this chapter as well as applicable civil and criminal laws.

.36 Resident's Rights.

A. Resident Bill of Rights.

(1) An assisted living program shall develop a Resident Bill of Rights that, at a minimum, includes the following rights:

(a) Be treated with consideration, respect, and full recognition of the resident's human dignity and individuality;

(b) Receive treatment, care, and services that are adequate, appropriate, and in compliance with relevant State, local, and federal laws and regulations;

(c) Receive services and supports that optimize autonomy, independence, and personal choice;

(d) Actively participate in planning and developing the resident's service plan and medical treatment;

(e) Choose a pharmacy provider, if the provider can comply with the assisted living programs' reasonable policies and procedures for patient safety in medication supply and administration;

(f) Make an informed decision to accept or refuse treatment;

(g) Privacy, including the right to have a staff member knock on the resident's door before entering unless the staff member knows that the resident is asleep or there is an emergency situation;

(h) Be free from mental, verbal, sexual, and physical abuse, neglect, and financial exploitation;

(i) Be free from involuntary seclusion and physical and chemical restraint used in violation of this chapter;

(j) Confidentiality;

(k) Manage personal financial affairs to the extent permitted by law;

(l) Retain and have access to legal counsel in a private setting;

(m) Attend or not attend religious services as the resident chooses, and receive visits from members of the clergy;

(n) Possess and use personal clothing and other personal effects to a reasonable extent, and to have reasonable security for those effects in accordance with the assisted living program's security policy;

(o) Determine dress, hairstyle, or other personal effects according to individual preference, unless the personal hygiene of a resident is compromised;

(p) Meet or visit privately with any individual the resident chooses, subject to reasonable restrictions on visiting hours and places:

(i) In accordance with the resident agreement; and

(ii) As posted by the assisted living manager;

(q) Make suggestions or complaints or present grievances on behalf of the resident, or others, to the assisted living manager, government agencies, or other persons without threat or fear of retaliation;

(r) Receive a prompt response, through an established complaint or grievance procedure, to any complaints, suggestions, or grievances the resident may have;

(s) Have access to the procedures for making complaints to:

(i) The Long-Term Care Ombudsman Program of the Department of Aging as set forth in COMAR 32.03.02;

(ii) The Adult Protective Services Program of the local department of human services;

(iii) The OHCQ of the Department; and

(iv) The designated protection and advocacy agency, if applicable;

(t) Have access to writing instruments, stationery, and postage;

(u) Receive and send correspondence without delay, and without the correspondence being opened, censored, controlled, or restricted, except on request of the resident, or written request of the resident representative;

(v) Receive a prompt, reasonable response from an assisted living manager or staff to a personal request of the resident;

(w) Receive notice before the resident's roommate is changed and, to the extent possible, have input into the choice of roommate;

(x) Have reasonable access to the private use of a common use telephone within the facility;

(y) Retain personal clothing and possessions as space permits with the understanding that the assisted living program may limit the number of personal possessions retained at the facility for the health and safety of other residents;

(z) To participate in decision making regarding transitions in care, including a transfer or discharge from a facility; and

(aa) To receive notice, procedural fairness, and humane treatment when being transferred or discharged from an assisted living facility.

(2) An assisted living program shall:

- (a) Provide the Resident Bill of Rights to all residents and resident representatives prior to or upon admission; and
- (b) Either:
 - (i) Post the Resident Bill of Rights in a conspicuous place that is visible to residents, potential residents, and other interested parties; or
 - (ii) Post a notice stating where in the facility the Resident Bill of Rights is located.

B. Confidential Information.

- (1) Any case discussion, disclosure of health information, consultation, examination, or treatment of a resident is:
 - (a) Confidential;
 - (b) To be done discreetly; and
 - (c) Not open to an individual who is not involved directly in the care of the resident, unless the resident or resident representative permits the individual to be present.
- (2) Except as necessary for the transfer of a resident from the assisted living program to another facility, or as otherwise required by law, the personal and medical records of a resident are confidential and may not be released without the consent of the resident or resident representative to any individual who is:
 - (a) Not associated with the assisted living program; or
 - (b) Associated with the assisted living program, but does not have a demonstrated need for the information.
- (3) The assisted living manager shall share resident information with the Department as necessary to administer this chapter.

C. Work Duties.

- (1) A resident may not be assigned to do any work for the assisted living program without the resident's consent and appropriate compensation, unless the resident declines to be compensated.
- (2) The resident's work duties shall be described in the resident's record.
- (3) The resident's declining to be compensated shall be documented in the resident's record.
- (4) The resident may, at any time, discontinue the work duties without threat or fear of retaliation.

D. Adult Medical Day Care.

- (1) Adult day care attendance or attendance at any other structured program shall be voluntary.
- (2) Adult medical day care availability and policies shall be disclosed in the assisted living program's resident agreement.

.37 Abuse, Neglect, and Financial Exploitation.

A. An assisted living program shall develop and implement policies and procedures prohibiting abuse, neglect, and financial exploitation of residents.

B. An assisted living program may not knowingly employ an individual who has any criminal conviction or other criminal history that indicates behavior that is potentially harmful to residents, documented through either a criminal history records check or a background check.

C. Reports of Abuse, Neglect, or Financial Exploitation.

(1) An assisted living program or employee of an assisted living program who has witnessed, or otherwise has reason to believe, that a resident has been subjected to abuse, neglect, or financial exploitation shall report the alleged abuse, neglect, or financial exploitation within 24 hours to the:

- (a) Appropriate law enforcement agency;
- (b) Office of Health Care Quality of the Department;
- (c) Ombudsman within the Department of Aging or local area agency on aging;
- (d) Local Department of Human Services or Adult Protective Services; and
- (e) Assisted living manager unless they are believed to be involved with the abuse, neglect, or financial exploitation.

(2) An assisted living program or an employee may be subject to a penalty imposed by the Secretary of up to \$1,000 for failing to make a report required by §C(1) of this regulation within 3 days after learning of the alleged abuse, neglect, or financial exploitation.

(3) A person aggrieved by the action of the Secretary under §C of this regulation may appeal the Secretary's action by filing a request for a hearing in accordance with Regulation .65 of this chapter.

(4) A licensed or certified individual who has knowledge of, but does not report, suspected abuse, neglect, or financial exploitation may be referred to their respective health occupation board.

D. Investigations. An assisted living program shall:

- (1) Thoroughly investigate all allegations of abuse, neglect, or financial exploitation and maintain on-site written documentation of the investigation; and
- (2) Take appropriate action to prevent further incidents of abuse, neglect, or financial exploitation while the investigation is in progress.

E. Investigation Reports.

(1) The assisted living program or any government agency that investigates the abuse, neglect, or financial exploitation shall send a report to the:

- (a) Appropriate law enforcement agency;
- (b) Office of Health Care Quality of the Department;
- (c) Ombudsman within the Department of Aging or local area agency on aging; and
- (d) Local Department of Human Services or Adult Protective Services.

(2) The entities set forth in §E(1) of this regulation may make a referral, if appropriate, to:

(a) The State's attorney's office; or

(b) The Medicaid Fraud Control Unit of the Criminal Division of the Office of the Attorney General.

F. *Immunity from Civil Liability.* An individual who, acting in good faith, makes a report under this regulation has immunity from liability as described in Health-General Article, §19-347(g), Annotated Code of Maryland.

G. *Notice.* The assisted living program shall post signs that set forth the reporting requirements of §C(1) of this regulation, conspicuously in the employee and public areas of the facility.

.38 Restraints.

A. *The resident has the right to be free of restraints used in violation of this chapter.*

B. *A protective device as defined in Regulation .02B(66) of this chapter is not considered a restraint.*

C. *Improper Use of Chemicals or Drugs.* Chemicals or drugs may not be used for residents in the following ways:

(1) *In excessive dose, including duplicate drug therapy;*

(2) *For excessive duration, without adequate monitoring;*

(3) *Without adequate indications for its use; or*

(4) *In the presence of adverse consequences which indicate the dose should be reduced or discontinued.*

D. *Improper Use of Physical Restraints.* Residents may not be physically restrained:

(1) *For discipline or convenience; or*

(2) *If a restraint is not ordered by a [[health care practitioner]] physician to treat the resident's symptoms or medical conditions.*

E. *Restraint Orders.*

(1) *Any restraint shall be ordered by a [[health care practitioner]] physician and shall specify:*

(a) *The purpose of the restraint;*

(b) *The type of restraint to be used; and*

(c) *The length of time the restraint shall be used.*

(2) *A resident may not have an as-needed restraint order.*

(3) *Orders for the use of a restraint shall be time specific.*

(4) *A resident may not remain in a restraint for more than 2 hours without a change in position and toileting opportunity.*

(5) *If an order for the use of a restraint is to be continued, the order shall be renewed at least every 7 calendar days by a [[health care practitioner]] physician.*

(6) *The delegating nurse shall provide training to staff in the appropriate use of the restraint ordered by the [[health care practitioner]] physician.*

F. *Bed Rails.* Bed rails may be considered a restraint depending upon the reason for the use of bed rails and how the bed rails are used. This determination is based upon the resident and the effect that bed rails would have upon the resident, as documented in the resident's record.

G. *The program shall notify the resident's family or the resident representative each time a restraint is used.*

H. *When the resident is under the care of a general hospice care program licensed by the Department and is physically located in an assisted living program licensed by the Department, the general hospice program and the assisted living program shall comply with the requirements of this chapter, COMAR 10.07.21, and federal regulations.*

.39 Protection of a Resident's Personal Funds.

A. *A resident may:*

(1) *Manage the resident's financial affairs; or*

(2) *Consistent with State law, choose any individual who is willing and able to handle the resident's financial affairs.*

B. *An assisted living program may refuse to handle a resident's financial affairs.*

C. *An assisted living program may not manage a resident's funds without an express written request from the:*

(1) *Resident; or*

(2) *Resident agent.*

D. *Management of Personal Funds.* On the written authorization of a resident or resident agent, an assisted living program shall hold, safeguard, manage, and account for the resident's personal funds as specified in this regulation.

E. *Safeguards Required.*

(1) *Each assisted living program shall develop adequate safeguards to secure the personal funds of a resident that are entrusted to the assisted living program.*

(2) *An assisted living program to which \$300 or more of a resident's personal funds is entrusted shall deposit the money in an interest-bearing bank account. If an assisted living program is entrusted with a resident's personal funds that are less than \$300, the assisted living program may deposit the funds in a bank account.*

(3) *An assisted living program that manages residents' personal funds, regardless of the amount managed, shall maintain on behalf of the residents:*

(a) *A bond, with the State as obligee, equal to the average monthly balance of all the funds held or managed by the assisted living program for the residents of the facility;*

(b) *A letter of credit, with the State as obligee, equal to the average monthly balance of all the funds held or managed by the assisted living program for the residents of the facility; or*

(c) *Net assets equal to the average monthly balance of all the funds held or managed by the assisted living program for the residents of the facility.*

(4) The bond, letter of credit, or list of assets shall be kept at the assisted living program for inspection by the Department or its designee.

F. Establishment of Resident Accounts.

(1) When an assisted living program manages a resident's financial affairs, the assisted living program shall:

(a) Establish and maintain a system that ensures a full, complete, and separate accounting, in accordance with generally accepted accounting principles, of a resident's personal funds entrusted to the assisted living program; and

(b) Keep the accounts of its residents separate from the accounts of the facility.

(2) Bank accounts opened for residents' personal funds by an assisted living program shall have minimal or no fees.

(3) Any interest earned on the bank accounts shall accrue to the resident.

(4) Any fees charged by the bank for the maintenance of the account shall be paid by the resident.

G. Records of Resident Personal Funds. For all resident funds entrusted to an assisted living program, the assisted living program shall:

(1) Maintain an individual record for each resident, which includes the following information for each transaction:

(a) The date of the transaction;

(b) The type of transaction, that is, whether it is a deposit, withdrawal, or any other transaction; and

(c) The balance of funds after the completion of the transaction;

(2) Make available for inspection by the resident, or, when applicable, the resident agent or resident representative, a statement of the resident's account; and

(3) Make available at the assisted living program, for audit by the Department or its designee, records pertaining to each resident's personal funds, including the written authorization required by §D of this regulation.

H. Fire and Theft Coverage. For all resident funds entrusted to an assisted living program, the assisted living program shall establish and maintain adequate fire and theft coverage to protect a resident's funds that are on the premises of the assisted living program.

I. Availability of Personal Funds.

(1) A resident or, if applicable, the resident's legally authorized representative, has the right to access funds entrusted to the assisted living program:

(a) During normal business hours, if the funds are held within the facility; or

(b) Within 3 banking days, if a bank, the State, or a county or municipal treasurer holds the money.

(2) If an assisted living program transfers or discharges a resident, the assisted living program shall:

(a) Request and follow the resident's written instructions for transferring the resident's funds;

(b) Return, upon the resident's or, when applicable, the resident agent's demand, the resident's money that the assisted living program has in its possession and have the resident or resident agent sign a receipt for the money; or

(c) Make available to the resident or the resident agent, within 3 banking days, the resident's money which is held in an account with a bank, the State, or a county or municipal treasurer.

J. Ownership Change.

(1) If the ownership of an assisted living program changes, the previous owner, with the approval of each resident, shall give the new owner a certified written audit of all funds that residents have entrusted to the assisted living program.

(2) The new owner shall give to the previous owner a signed receipt acknowledging the receipt of the accounts.

(3) The new owner shall comply with the safeguard requirements of §E of this regulation.

(4) If the resident wants the new owner to hold, safeguard, manage, or account for the residents personal funds, then a new written authorization in compliance with §D of this regulation shall be executed.

K. Resident Liability. A resident is not liable for any act or omission of the assisted living program concerning the finances of the assisted living program or the resident.

.40 Misuse of Resident's Funds.

A. A person may not misappropriate a resident's assets or income, including spending the resident's assets or income against or without the consent of the resident or, if the resident is unable to consent, the resident agent.

B. An individual who witnessed, or otherwise has reason to believe, that there has been an abuse of a resident's funds shall make a complaint within 24 hours to the:

(1) Appropriate law enforcement agency;

(2) Office of Health Care Quality of the Department;

(3) Ombudsman within the Department of Aging or local area agency on aging; and

(4) Local Department of Human Services or Adult Protective Services.

C. The agency that investigates the abuse of a resident's funds shall send a report to any other agency listed under §B of this regulation that participates in the licensure or subsidizes the care of the resident. Any agency may make a referral to the State's Attorney's Office, or to the Medicaid Fraud Control Unit of the Criminal Division of the Office of the Attorney General, if appropriate.

.41 Approval of Burial Arrangements for Unclaimed Deceased Residents.

A. An assisted living program shall ascertain and document on admission of the resident, or within 14 calendar days of admission, any arrangements the resident has made, or wishes to make, with regard to burial, including, but not limited to:

(1) Financial;

(2) Religious;

- (3) Name of preferred funeral director, if any; and
- (4) The name, address, and relationship of any person who has agreed to claim the body of the resident or who has agreed to assume funeral or burial responsibility.

B. Notification on Death. On the death of an individual who appears to be an unclaimed deceased resident, the assisted living manager or designee shall contact any person who, although not having been identified in advance as being responsible for the burial arrangements, might nevertheless at the time of death be willing to claim the body and assume responsibility.

.42 General Physical Plant Requirements.

- A. The facility and exterior grounds, shall be kept:
 - (1) In good repair;
 - (2) Clean;
 - (3) Free of any object, material, or condition that may create a health hazard, accident, or fire;
 - (4) Free of any object, material, or condition that may create a public nuisance; and
 - (5) Free of insects and rodents.
- B. Bathtubs, shower stalls, and lavatories may not be used by the staff for laundering or storing soiled linens.
- C. The assisted living program shall provide in the resident's room adequate storage space for excess supplies, some personal possessions of residents, and similar items which is:
 - (1) Protected from the elements; and
 - (2) Secure, fixed, and locked in a manner that the resident can access without assistance or with that level of assistance normally required and readily available upon request.
- D. Residents may possess their own cleaning supplies and personal hygiene items if the assisted living manager and delegating nurse have determined that the products would not present a threat to the safety of the resident or others and this decision is documented in the records. The cleaning supplies and personal hygiene items shall be kept in the resident's room and out of view of other residents when the materials are not in use.

.43 Water Supply.

- A. Approved Source. A facility shall be served by water from an approved public water supply. If an approved public water supply is not available, a private water supply may be accepted if it is approved by the local jurisdiction in which the program is located or a private certified vendor to be submitted with an initial licensure application.
- B. Adequacy. The water supply shall be adequate in quantity and delivered under sufficient pressure to satisfactorily serve all fixtures in the facility.
- C. Hot Water Temperature. Hot water accessible to residents shall be blended externally to the hot water generator, by either individual point-of-use control valves of the anti-scald or thermostatic mixing valve type, to a maximum temperature of 120°F and a minimum temperature of 100°F at the fixture.

.44 Sewage Disposal.

The facility shall be served by an approved public sewage disposal system, if available. If an approved public sewage disposal system is not available, a private sewage disposal system may be accepted if approved by the local jurisdiction in which the program is located.

.45 Security.

- A. The facility shall provide:
 - (1) Lockable exterior doors and windows; and
 - (2) An effective automated device or system to alert staff to individuals entering or leaving the building.
- B. A facility need not use an automated alert for an exit door when the exit is staffed by a receptionist or other staff member who views and maintains a log of individuals entering and leaving the facility.

.46 Assist Rails.

- A. An assisted living program shall provide assist rails in stairways used by residents and for all toilets, showers, and bathtubs used by residents unless, through a waiver request, the Department determines that the physical abilities of the residents make these devices unnecessary for resident safety.
- B. An assisted living program with a licensed capacity of 17 or more beds shall also provide assist rails on both sides of corridors used by residents.

.47 Emergency Preparedness.

- A. The facility shall comply with:
 - (1) All applicable local fire and building codes; and
 - (2) The National Fire Protection Association (NFPA) 101 Life Safety Code, including Chapter 24 of NFPA 101 if the facility is a one or two family dwelling as defined by NFPA 101.
- B. Fire Extinguishers. An assisted living program shall:
 - (1) Ensure that fire extinguishers are:
 - (a) Located on each floor and adjacent to, or in, special hazard areas, such as:
 - (i) Furnace rooms;
 - (ii) Boiler rooms;

- (iii) Kitchens; or
 - (iv) Laundries;
- (b) Of standard and approved types;
- (c) Installed and maintained to be conveniently available for use at all times; and
- (d) Serviced annually, as evidenced by documentation maintained on-site, by an individual or company licensed by the Maryland State Fire Marshall; and
- (2) Initially and at least annually instruct staff in the use of fire extinguishers.
- C. Emergency and Disaster Plan.
 - (1) The assisted living program shall develop an Assisted Living Emergency Preparedness Packet in compliance with the requirements of §C(2)—(11) of this regulation, which shall be readily available to all staff.
 - (2) The assisted living program shall develop an emergency and disaster plan that includes procedures that shall be followed before, during, and after an emergency or disaster, including:
 - (a) Evacuation, transportation, or sheltering in-place of residents;
 - (b) Notification of families and staff regarding the action that will be taken concerning the safety and well-being of the residents;
 - (c) Staff coverage, organization, and assignment of responsibilities for ongoing sheltering in-place or evacuation, including identification of staff members available to report to work or remain for extended periods; and
 - (d) The continuity of services, including:
 - (i) Operations, planning, financial, and logistical arrangements;
 - (ii) Procuring essential goods, equipment, and services to sustain operations for at least 72 hours;
 - (iii) Relocation to alternate facilities or other locations; and
 - (iv) Reasonable efforts to continue care.
 - (3) The assisted living program shall have a tracking system to locate and identify residents in the event of displacement, an emergency, or a disaster that includes at a minimum the:
 - (a) Resident's name;
 - (b) Date and time that the resident was sent to the initial alternative facility or location;
 - (c) Name of the initial alternative facility or location where the resident was sent; and
 - (d) Contact person and phone number for the facility where the resident was sent.
 - (4) When the assisted living program relocates residents, the assisted living program shall send a brief medical fact sheet with each resident that includes at a minimum the resident's:
 - (a) Name;
 - (b) Medical condition or diagnosis;
 - (c) Medications;
 - (d) Allergies;
 - (e) Special diets or dietary restrictions; and
 - (f) Family or legal representative contact information.
 - (5) The brief medical fact sheet for each resident described in §C(4) of this regulation shall be:
 - (a) Updated upon the occurrence of change in any of the required information;
 - (b) Reviewed at least monthly; and
 - (c) Maintained in a central location readily accessible and available to accompany residents in case of an emergency evacuation.
 - (6) The assisted living program shall review the emergency and disaster plan at least annually and update the plan as necessary.
 - (7) The assisted living program shall:
 - (a) Identify a facility, facilities, or an alternate location or locations that have agreed to house the licensee's residents during an emergency evacuation; and
 - (b) Document an agreement with each facility or location.
 - (8) The assisted living program shall:
 - (a) Identify a source or sources of transportation that have agreed to safely transport residents during an emergency evacuation; and
 - (b) Document an agreement with each transportation source.
 - (9) Upon request, an assisted living program shall provide a copy of the facility's emergency and disaster plan to the local emergency management organization for the purpose of coordinating local emergency planning. The assisted living program shall provide the emergency and disaster plan in a format that is mutually agreeable to the local emergency management organization.
 - (10) The assisted living program shall identify an emergency and disaster planning liaison for the facility and shall provide the liaison's contact information to the local emergency management organization.
 - (11) The assisted living program shall prepare an executive summary of its evacuation procedures to provide to a resident, family member, or legal representative upon request. The executive summary shall, at a minimum:
 - (a) List means of potential transportation to be used in the event of evacuation;
 - (b) List potential alternative facilities or locations to be used in the event of evacuation;
 - (c) Describe means of communication with family members and legal representatives;
 - (d) Describe the role of the resident, family member, or legal representative in the event of an emergency situation; and

(e) Notify families that the information provided may change depending upon the nature or scope of the emergency or disaster.

D. Evacuation Plans. The facility shall:

- (1) Conspicuously post individual floor plans with designated evacuation routes on each floor; and
- (2) Ensure that all staff have access to the entire emergency preparedness plan.

E. Orientation and Drills.

(1) The assisted living program shall:

(a) Orient staff to the emergency and disaster plan and to their individual responsibilities within 24 hours of the commencement of job duties; and

(b) Document completion of the orientation in the staff member's personnel file through the signature of the employee.

(2) Fire Drills.

(a) The assisted living program shall conduct fire drills at least quarterly on all shifts.

(b) Documentation and Retention. The assisted living program shall document and maintain on file for a minimum of 2 years the:

- (i) Completion date and time of each drill;
- (ii) Names and signatures of staff who participated in the drill;
- (iii) Fire scenario used in the drill;
- (iv) Steps taken by staff during the drill;
- (v) Successful and non-successful actions taken by staff during the drill; and
- (vi) Opportunities for improvement identified as a result of the drill.

(3) Semiannual Disaster Drill.

(a) The assisted living program shall conduct a semiannual emergency and disaster drill on all shifts during which it practices evacuating residents or sheltering in-place so that each is practiced at least one time a year.

(b) The drills may be conducted via a table-top exercise if the program can demonstrate that moving residents will be harmful to the residents.

(c) The assisted living program shall document and keep on file for a minimum of 2 years the:

- (i) Completion date and time of each disaster drill or training session;
- (ii) Names and signature of staff who participated in the drill or training;
- (iii) Type of disaster utilized for the drill or training;
- (iv) Type of drill or training undertaken;
- (v) Steps taken or discussed by staff during the drill or training;
- (vi) Successful and non-successful actions taken or discussed by staff during the drill or training; and
- (vii) Opportunities for improvement as identified as a result of the drill.

(4) The assisted living program shall cooperate with the local emergency management agency in emergency planning, training, and drills and in the event of an actual emergency.

F. Emergency Electrical Power Generator.

(1) Generator Required. By October 1, 2009, an assisted living program with 50 or more residents shall have an emergency electrical power generator on the premises, unless the program meets the requirements of §F(7) of this regulation.

(2) Generator Specifications. The power source shall be a generating set and prime mover located on the program's premises with automatic transfer. The emergency generator shall:

- (a) Be activated immediately when normal electrical service fails to operate;
- (b) Come to full speed and load acceptance within 10 seconds; and
- (c) Have the capability of 48 hours of operation of the systems listed in §F(5) of this regulation from fuel stored on-site.

(3) Test of Emergency Power System.

(a) The program shall test the emergency power system once each month.

(b) During testing of the emergency power system, the generator shall be exercised for a minimum of 30 minutes under normal emergency facility connected load.

(c) Results of the test shall be recorded in a permanent log book that is maintained for that purpose.

(d) The assisted living program shall monitor the fuel level of the emergency generator after each test.

(4) The emergency power system shall provide lighting in the following areas of the facility:

(a) Areas of egress and protection as required by the State Fire Prevention Code and Life Safety Code 101 as adopted by the State Fire Prevention Commission;

(b) Nurses' station;

(c) Medication distribution station or unit dose storage;

(d) An area for emergency telephone use;

(e) Boiler or mechanical room;

(f) Kitchen;

(g) Emergency generator location and switch gear location;

(h) Elevator, if operable on emergency power;

(i) Areas where life support equipment is used;

(j) If applicable, common areas or areas of refuge; and

(k) If applicable, toilet rooms of common areas or areas of refuge.

- (5) *Emergency electrical power shall be provided for the following:*
- (a) *Nurses' call system;*
 - (b) *At least one telephone in order to make and receive calls;*
 - (c) *Fire pump;*
 - (d) *Well pump;*
 - (e) *Sewerage pump and sump pump;*
 - (f) *If required for evacuation purposes, an elevator;*
 - (g) *If necessary, heating equipment needed to maintain a minimum temperature of 70°F (24°C) in all common areas or areas of refuge;*
 - (h) *Life support equipment; and*
 - (i) *Nonflammable medical gas systems.*
- (6) *Common Areas or Areas of Refuge. If the emergency power system does not provide heat to all resident rooms and toilet rooms, the program shall provide common areas or areas of refuge for all residents. The areas shall meet the following requirements:*
- (a) *The common area or areas of refuge shall maintain a minimum temperature of 70°F (24°C);*
 - (b) *Heated toilet rooms shall be provided adjacent to the common areas or areas of refuge; and*
 - (c) *The program facility shall provide to the Department a written plan that defines the:*
 - (i) *Specified common areas or areas of refuge;*
 - (ii) *Paths of egress from the common areas or areas of refuge; and*
 - (iii) *Provision for light, heat, food service, and washing and toileting of residents.*
- (7) *Applicability of Emergency Power Requirements.*
- (a) *An assisted living program shall be exempt from the requirements of this section if the program can safely transfer residents through an enclosed corridor to a building that is equipped with an electrical power generator that satisfies the requirements of §E of this regulation.*
 - (b) *An assisted living program may request a waiver from the requirements of this section in accordance with the procedures outlined in COMAR 10.07.14.09 on a year-to-year basis. The program shall demonstrate in the waiver request financial hardship that would create an undue financial burden on the facility and will require the facility to cease operation of the assisted living program.*
 - (c) *When the Department grants a waiver to an assisted living program for the requirements of this section, the assisted living program shall:*
 - (i) *Disclose in writing to current and prospective residents that the program does not have an emergency generator;*
- and
- (ii) *Develop a plan to follow in the event of a loss of electrical power.*

.48 Smoking.

- A. *The assisted living program shall have a written smoking policy that indicates whether or not the program permits smoking.*
- B. *When smoking is permitted, the assisted living program shall:*
- (1) *Establish smoking policies and procedures which are designed to minimize the risk of fire;*
 - (2) *Provide in the policies and procedures at least the following:*
 - (a) *Prohibit smoking in any hazardous location and in any room or compartment where flammable liquids, combustible gases, or oxygen are used or stored;*
 - (b) *Designate smoking areas; and*
 - (c) *Provide the smoking areas with ash trays of noncombustible material and safe design;*
 - (3) *Provide smoking areas that comply with all applicable, local, State, and federal regulations;*
 - (4) *Assess each resident who smokes to determine if assistance or supervision is needed and document the assessment in the resident's service plan; and*
 - (5) *At least annually or after a change of condition that may impact a resident's ability to smoke, reassess a resident who smokes to determine if assistance or supervision is needed and document the reassessment in the resident's service plan.*

.49 Common Use Areas.

- A. *Multipurpose Space.*
- (1) *The assisted living program shall provide at least 35 square feet of usable multipurpose floor space per licensed bed. Multipurpose space includes:*
 - (a) *Dining;*
 - (b) *Living; and*
 - (c) *Indoor recreational space.*
 - (2) *Usable floor space in a facility does not include:*
 - (a) *Service areas;*
 - (b) *Administrative offices;*
 - (c) *Entrance ways;*
 - (d) *Closets;*
 - (e) *Lockers;*
 - (f) *Wardrobes;*

(g) Spaces where ceiling heights are less than acceptable for habitable space, as defined by the applicable local building code; or

(h) Corridors.

(3) The assisted living program may not restrict residents from any area constituting multipurpose space unless a comparable multipurpose space is available for resident use.

B. Living Room.

(1) The assisted living program shall make at least one living room available for resident use.

(2) The assisted living program shall ensure that the living rooms are:

(a) Well lit and ventilated;

(b) Easily accessible; and

(c) Furnished with a sufficient number of reading lamps, tables, chairs, or sofas based on residents' needs.

C. Outdoor Space. An assisted living program shall:

(1) Provide or arrange for outside activity space;

(2) Adequately light outside activity space during all times residents have access to the space; and

(3) Provide the necessary security and supervision of the outside activity space sufficient to meet the needs of the residents.

D. Public Toilets.

(1) An assisted living program with a licensed capacity of 17 or more beds shall provide public restrooms that are:

(a) Sufficient in number, and appropriately located, to serve both residents and visitors; and

(b) Located close enough to activity areas to allow all residents to participate comfortably in activities and social opportunities.

(2) The public toilet is not calculated in the ratio required by Regulation .50A of this chapter.

E. Dining Room. An assisted living program shall provide a well lit, adequately ventilated, and appropriately furnished dining area.

F. Kitchen.

(1) An assisted living program shall have a kitchen that has adequate:

(a) Storage, refrigerator, and freezer space for perishable and nonperishable foods;

(b) Food preparation area or areas with cleanable surfaces;

(c) Equipment to deliver foods at safe and palatable temperatures;

(d) Space and equipment to wash, sanitize, and store utensils;

(e) Space to store and clean garbage cans either within or outside the kitchen;

(f) Ice-making capabilities;

(g) Equipment for the preparation of food, unless all food service is catered; and

(h) Equipment for serving and distributing food to residents.

(2) An assisted living program with a licensed capacity of 17 or more beds shall comply with the food service facility regulations in COMAR 10.15.03.

(3) An assisted living program with fewer than 17 residents is not required to comply with COMAR 10.15.03 unless required to comply by its local jurisdiction or the Department determines and directs that a program shall comply with particular provisions of COMAR 10.15.03 in order to minimize health risks to its residents.

(4) An assisted living program with fewer than 17 residents:

(a) Shall obtain food from sources that comply with all laws and regulations relating to food, food processing, food handling, and food labeling;

(b) Shall protect food from contamination while being stored, prepared, displayed, served, or transported;

(c) Shall promptly discard the following:

(i) Spoiled food;

(ii) Swelled, rusty, or leaky canned foods; and

(iii) Food exposed to fire, smoke, or water damage;

(d) May not serve to residents home-canned food or food in a hermetically sealed container as defined in COMAR 10.15.03.02B, which was prepared in a place other than a licensed food processing establishment;

(e) Shall maintain potentially hazardous food as defined in COMAR 10.15.03.02B at 45°F or below, or 140°F or above, until served to residents;

(f) Shall maintain food equipment, appliances, and utensils in a clean and sanitary manner and in good repair;

(g) Shall maintain food contact surfaces smooth and free of breaks, open seams, cracks, chips, and pits;

(h) Shall maintain floors, walls, and storage areas in a clean and sanitary manner and in good repair;

(i) Shall provide refrigeration operated at or below 45°F and equipped with an indicating thermometer graduated at 2°F intervals; and

(j) Shall provide freezer space operated at 0°F or less and equipped with an indicating thermometer graduated at 2°F intervals.

.50 Resident's Room and Furnishings.

A. Resident Room.

(1) More than two residents may not share a resident room.

(2) An assisted living program shall provide at least 80 square feet of functional space for single occupancy resident rooms and 120 square feet of functional space for double occupancy resident rooms.

(3) Functional space in a resident room does not include the floor area of:

- (a) Toilet rooms and bathing facilities;
- (b) Closets, wardrobes, bureaus, or lockers;
- (c) Entrance vestibules; or
- (d) The arc of any door, excluding closet doors, that opens into the room.

(4) A room may not be used as a resident room if:

- (a) The only access to the room is through a bathroom or other resident room; or
- (b) In order to move from the room to a living room or dining room a person must first go outdoors.

(5) For a program with a licensed capacity of 17 or more beds, a room may not be used as a resident room if in order to move from the room to a living room or dining room, an individual is required to first pass through a kitchen.

(6) Resident rooms shall be for the private use of the assigned resident or residents. A resident's room shall have a latching door and may have a lock on the resident room side of the door at the licensee's option.

(7) If a resident in a double occupancy room requests dividers, curtains, or screens between the beds to ensure privacy, the assisted living program shall furnish them.

(8) A resident shall have access to a mirror either in the resident's room or in the resident's private bathroom, unless a health care practitioner documents in the resident's record that access to a mirror would be detrimental to the health of the resident.

(9) A resident's room shall have window shades or their equivalent.

(10) The assisted living program shall provide adequate closet or wardrobe space, conveniently located to allow each resident to keep personal clothing.

B. Furnishings. Unless a resident brings personal furnishings, or as otherwise specified in the resident agreement, the assisted living program shall provide the following to each resident:

(1) A bed, which may not be a rollaway, cot, or folding bed, but shall:

- (a) Be at least 36 inches wide;
- (b) Be in good repair;
- (c) Meet the resident's medical needs; and
- (d) Include:
 - (i) A clean mattress sized to fit the bed frame; and
 - (ii) At least two clean pillows;

(2) A bedside stand with a drawer;

(3) A chair;

(4) At least two dresser drawers in a chest of drawers;

(5) A bedside or over-the-bed lamp; and

(6) A sufficient supply of bath and bed linens.

C. A competent resident may waive the resident's right to one or all of the furnishings listed in §B of this regulation by signing a waiver and having the waiver placed in the resident's record.

D. The assisted living program shall inform a resident of all of the furnishings that the assisted living program provides. The resident may choose, at their cost, to provide a personal bed or other furnishings if they are not hazardous.

.51 Bathrooms for Residents.

A. Toilets.

(1) An assisted living program shall provide toilets in a separate room or compartment with latching hardware for privacy.

(2) Buildings with one to eight occupants shall have a minimum ratio of one toilet to four occupants.

(3) Buildings with nine or more occupants shall have a minimum ratio of one toilet to four occupants and a minimum of one toilet for each floor on which a resident room is located.

B. Hand Sinks.

(1) Buildings with one to eight occupants shall have a minimum ratio of one hand sink to four occupants.

(2) Buildings with nine or more occupants shall have a minimum ratio of one hand sink to four occupants and a minimum of one hand sink for each floor on which a resident room is located.

C. Bathtubs or Showers. An assisted living program shall:

(1) Provide residents with bathtubs or showers that are enclosed in a separate room or compartment with latching hardware for privacy; and

(2) Have a minimum ratio of one bathtub or shower to eight occupants.

.52 Illumination.

A. Resident's Room.

(1) An assisted living program shall ensure that a resident's room:

(a) Is lighted by an outside window that:

- (i) Contains a glass surface; and
- (ii) Has square footage at least equal to 10 percent of the room's required floor area;

(b) Has a minimum of 60 watts or the equivalent of artificial light provided for reading; and

(c) Is provided with additional artificial light as required for other uses, such as night lights to enable residents to get to the bathroom at night.

(2) An assisted living program shall provide additional lighting or watts upon reasonable request by the resident or the resident's legal representative.

B. *Common Use Areas.* An assisted living program shall ensure that common use areas, such as entrances, hallways, inclines, ramps, cellars, attics, storerooms, kitchens, and laundries, have sufficient artificial lighting to prevent accidents and promote efficient service.

C. The assisted living program shall provide sufficient light to meet the resident's needs.

.53 Heating, Ventilation, and Air Conditioning.

A. An assisted living program may not use space heaters unless approved by the State or local fire authorities.

B. *Minimum Temperature.* The facility shall have a system that provides in areas used by residents a minimum temperature of 70°F in cold weather and a maximum temperature of 80°F in hot weather.

C. *Temperature Control.*

(1) An assisted living program with a licensed capacity of one to eight beds shall provide at least one thermostat per building.

(2) An assisted living program with a licensed capacity of nine or more beds shall provide for each resident's room:

(a) A thermostat; or

(b) An approved mechanical device for modulating a room's temperature, such as adjustable vanes in a hot air vent.

D. An assisted living program shall:

(1) Ensure that all rooms and areas have sufficient ventilation to prevent excessive heat, steam, condensation, smoke, and other noxious odors; and

(2) Provide forced mechanical exhaust ventilation or an approved equivalent for:

(a) All bathing compartments;

(b) Toilet rooms;

(c) Any area used for toileting;

(d) Soiled utility rooms;

(e) Designated smoking rooms; and

(f) Other rooms, as determined by the Department.

.54 Radiators.

A. If steam or hot water plumbing reaches a temperature in excess of 130°F or directly powered radiating surfaces are located in areas of the facility that are accessible to residents, the assisted living program shall position or shield the radiating surfaces in a manner to prevent resident contact.

B. The assisted living program shall ensure that the radiator shielding device:

(1) Allows for efficient heat transfer;

(2) Is constructed to minimize vermin harborage;

(3) Is constructed of easily cleanable materials; and

(4) Complies with all State and local fire codes.

.55 Laundry.

A. An assisted living program shall furnish laundry service, either on-site or off-site.

B. An assisted living program shall ensure that the laundry is:

(1) Adequate to meet the needs of the residents;

(2) Processed and handled in a manner to prevent the spread of infection; and

(3) Adequately sanitized by the use of sufficient hot water or appropriate chemical agents, or a combination of both.

C. Unless otherwise agreed by the program and the resident, dry cleaning services are not considered part of required laundry services in this chapter.

.56 Telephones.

A. An assisted living program with a licensed capacity of one to eight beds shall provide:

(1) At least one common-use telephone for residents; and

(2) A posting next to the common-use telephone or in a conspicuous location that contains the telephone numbers for the local police department and fire department.

B. An assisted living program with a licensed capacity of nine to 16 beds shall provide at least one common-use telephone. If there are nine or more residents that do not have private telephones in their own rooms, the assisted living program shall provide a second common-use telephone.

C. An assisted living program with a licensed capacity of 17 or more beds shall provide:

(1) That each resident's room accommodates the use of the resident's own private telephone; and

(2) An adequate number of common-use telephones to accommodate those residents who do not have private telephones installed in their rooms.

.57 Sanctions.

A. If the Secretary determines that an assisted living program has violated this chapter, the Secretary, in addition to the sanctions set forth in this chapter, may impose one or more of the following:

(1) Restrict the number of residents the assisted living program may admit in accordance with Health-General Article, §19-328, Annotated Code of Maryland;

(2) Require the assisted living program to reduce the number of residents in care;

(3) Restrict the levels of care for which the assisted living program may provide services;

(4) Require the assisted living program, and any of its staff, to receive remedial instruction in a specific area;

(5) Require the assisted living program to use the services of and cover the costs of a management firm approved by the Department;

(6) Require the assisted living program to use the services of and cover the costs of a consultant to provide expertise related to:

(a) One or more licensure requirements;

(b) Standards of care; or

(c) Discharge planning.

(7) Mandate staffing patterns which specify number of personnel, personnel qualifications, or both;

(8) Require the establishment of an escrow account in accordance with Health-General Article, §19-362, Annotated Code of Maryland;

(9) Direct the assisted living program to correct the violations in a specific manner or within a specified time frame, or both;

(10) Notify, or require the assisted living program to notify, the representative or family of any resident who is affected by the noncompliance;

(11) Increase the frequency of monitoring visits during a specified period of time; or

(12) Enter into an agreement with the assisted living program establishing certain conditions for continued operation, including time limits for compliance.

B. If the Secretary determines that the assisted living program has violated a condition or requirement of an imposed sanction, the Secretary may suspend or revoke the license.

C. Appeals.

(1) An assisted living program aggrieved by the imposition of a sanction under §A(1), (2), or (3) or B of this regulation may appeal the Secretary's action by filing a request for a hearing in accordance with Regulation .65 of this chapter.

(2) An assisted living program aggrieved by the imposition of a sanction under §A(8) of this regulation may appeal the Secretary's action in accordance with Health-General Article, §§19-364 and 19-367, Annotated Code of Maryland.

(3) This section does not, however, create an appeal for a decision made under Regulation .23A of this chapter.

.58 Civil Money Penalties.

A. The Secretary may impose a civil money penalty on a person if:

(1) The person maintains or operates an unlicensed assisted living program;

(2) A deficiency or an ongoing pattern of deficiencies exists in the assisted living program; or

(3) The person falsely advertises a program in violation of Regulation .06B(2) of this chapter.

B. In determining whether a civil money penalty is to be imposed, the Secretary shall consider the following factors:

(1) Nature, number, and seriousness of the deficiencies;

(2) The extent to which the deficiency or deficiencies are part of an ongoing pattern during the preceding 24 months;

(3) The degree of risk to the health, life, or safety of the residents of the program that is caused by the deficiency or deficiencies;

(4) The efforts made by, and the ability of the program to correct, the deficiency or deficiencies; and

(5) An assisted living program's prior history of compliance.

C. If the Department determines that a deficiency or an ongoing pattern of deficiencies exists, the Department shall notify the program of the deficiency or deficiencies and may:

(1) Impose a per day civil money penalty until sustained compliance has been achieved;

(2) Permit the program the opportunity to correct the deficiencies by a specific date; or

(3) Impose a per instance civil money penalty for each instance of violation.

D. If the Department permits a program the opportunity to correct the deficiencies by a specific date, and the program fails to comply with this requirement, the Department may impose a per day civil money penalty for each day of violation until correction of the deficiency or deficiencies has been verified and sustained compliance has been maintained.

E. If the Department proposes to impose a civil money penalty, the Secretary shall issue an order which shall state the:

(1) Deficiency or deficiencies on which the order is based;

(2) Amount of civil money penalties to be imposed; and

(3) Manner in which the amount of civil money penalties imposed was calculated.

F. A person aggrieved by the action of the Secretary under this regulation may appeal the Secretary's action by filing a request for a hearing in accordance with Regulation .65 of this chapter.

.59 Amount of Civil Money Penalties.

A. A civil money penalty imposed on a person under this chapter may not exceed the amounts identified in Health-General §19-1809, Annotated Code of Maryland.

B. In setting the amount of the civil money penalty under this chapter, the Secretary shall consider the following factors:

(1) Nature, number, and seriousness of the deficiencies;

(2) The degree of risk to the health, life, or safety of the residents of the program that is caused by the deficiency or deficiencies;

(3) The efforts made by, and the ability of, the program to correct the deficiency or deficiencies;

(4) Whether the amount of the civil money penalty will jeopardize the financial ability of the program to continue operation as a program; and

(5) Other factors as justice may require.

C. A person aggrieved by the action of the Secretary under this regulation may appeal the Secretary's action by filing a request for a hearing in accordance with Regulation .65 of this chapter.

.60 Civil Money Penalties — Hearings.

A. A hearing on the appeal shall be held consistent with the State Government Article, Title 10, Subtitle 2, Annotated Code of Maryland.

B. The Secretary shall have the burden of proof with respect to the imposition of the civil money penalties under this chapter.

.61 Criminal Penalties.

A. Operating Without a License.

(1) A person may not knowingly and willfully operate, maintain, or own an assisted living program without a license.

(2) A person who violates §A(1) of this regulation is guilty of a felony and on conviction is subject to:

(a) For a first offense, a fine not exceeding \$10,000, imprisonment not exceeding 5 years, or both; and

(b) For a subsequent offense, a fine not exceeding \$20,000, imprisonment not exceeding 5 years, or both.

(3) If the Department finds a credible allegation that an assisted living program is operating without a license, the Department, or the Office of Health Care Quality, shall investigate whether residents in the assisted living program have been subjected to neglect, abuse, or financial exploitation.

(4) On receipt of a credible allegation, or after an investigation that results in a finding that residents in an unlicensed assisted living program have been subjected to neglect, abuse, or financial exploitation, the person operating the unlicensed program shall be subject to immediate prosecution under §A(2) of this regulation.

(5) If the person operating an unlicensed assisted living program fails or refuses to cooperate fully in an investigation by the Department, or the Office of Health Care Quality, conducted under §A(3) of this regulation, the person operating the unlicensed assisted living program shall be subject to immediate prosecution under §A(2) of this regulation.

(6) If the Department finds, after an investigation conducted under §A(3) of this regulation, that there is no reason to believe that residents in the assisted living program operating without a license have been subject to financial exploitation, neglect, or abuse:

(a) The Department shall provide written notice to the unlicensed assisted living program that the program shall come into compliance with licensure requirements within 30 days after receipt of the written notification; and

(b) The person operating the program may not be subject to prosecution under §A(2) of this regulation if the person:

(i) Has promptly and in good faith submitted a complete application to the Department for an assisted living program license;

(ii) Is awaiting a decision from the Department regarding the application; and

(iii) Has not been denied an assisted living program license on a prior occasion.

(7) In recommending the amount of the criminal penalty under §A(2) of this regulation, the State shall consider factors including the nature, number, and seriousness of the violations.

(8) The Department, the Attorney General, a State's Attorney, or a local health officer may petition a circuit court for injunctive relief against the operation of an assisted living program operating without a license.

(9) A violation of §A(1) of this regulation shall be a violation of the Consumer Protection Act.

B. Advertisement and Representation of an Assisted Living Program.

(1) A person may not advertise, represent, or imply to the public that an assisted living program is authorized to provide a service that the program is not licensed, certified, or otherwise authorized by the Department to provide when the license, certificate, or authorization is required under this subtitle.

(2) A person may not advertise an assisted living program in a misleading or fraudulent manner.

(3) A person who violates §B(1) of this regulation is subject to a civil money penalty imposed by the Secretary not exceeding \$10,000 for each offense.

(4) In setting the amount of a civil money penalty on the program under §B(1) of this regulation, the Secretary shall consider factors including the nature, number, and seriousness of the violations and the ability of the assisted living program to pay the penalty.

C. Referral to an Assisted Living Program Operating Without a License.

(1) A person may not willfully and knowingly refer another person to an assisted living program that is operating without a license.

(2) A person who violates §C(1) of this regulation is subject to the following civil penalties:

(a) For a first offense, a civil penalty not exceeding \$1,000;

(b) For a second offense, a civil penalty not exceeding \$2,000; or

(c) For a third or subsequent offense, a civil penalty not exceeding \$3,000.

(3) The Secretary shall remit all civil penalties collected under this regulation to the Office of Health Care Quality for the purposes of carrying out the provisions of Health-General Article, §19–1813, Annotated Code of Maryland.

.62 Health Care Quality Account.

- A. The Department shall establish a health care quality account in the Department for assisted living programs.
- B. The health care quality account shall be funded by civil money penalties paid by assisted living programs.
- C. The Department shall use funds from the health care quality account to improve the quality of care in assisted living programs.
- D. Expenditure of funds may include, but is not limited to, the following:
 - (1) Funding for the establishment and operation of a demonstration project;
 - (2) A grant award;
 - (3) Relocation of residents in crisis situations;
 - (4) Provision of educational programs to assisted living programs, the Office of Health Care Quality, other government, professional, or advocacy agencies, and consumers; and
 - (5) Any other purpose that will directly improve quality of care.
- E. Suggestions for the use of funds may be submitted to the Department from:
 - (1) Members of the public;
 - (2) Advocacy organizations;
 - (3) Government agencies;
 - (4) Professional organizations, including trade associations;
 - (5) Assisted living programs; and
 - (6) Assisted living associations.
- F. Decision on Expenditure of Funds.
 - (1) The Department, in its sole discretion, shall decide how to spend funds from the health care quality account.
 - (2) The Department's decision to spend funds or not to spend funds for a specific project or purpose is not a contested case as defined in State Government Article, §10-202(d), Annotated Code of Maryland, and therefore may not be appealed.

.63 Emergency Suspension.

- A. The Secretary may immediately suspend a license on finding that the public health, safety, or welfare imperatively requires emergency action.
- B. The Department shall deliver a written notice to the assisted living program:
 - (1) Informing the program of the emergency suspension;
 - (2) Giving the reasons for the action and the regulation or regulations with which the assisted living program has failed to comply that forms the basis for the emergency suspension; and
 - (3) Notifying the assisted living program of its right to request a hearing and to be represented by counsel.
- C. The filing of a hearing request does not stay the emergency action.
- D. When a license is suspended by emergency action:
 - (1) The assisted living program shall immediately cease the use of all previously issued assisted living program licenses and return all paper licenses to the Department;
 - (2) The assisted living program shall stop providing assisted living services immediately;
 - (3) The assisted living manager or their designee shall notify the residents and resident representatives of the suspension and make every reasonable effort to assist them in making safe and appropriate discharge plans, including to other licensed assisted living programs; and
 - (4) The ~~[[assisted living manager or alternate assisted living manager]]~~ OHCQ shall immediately notify the following entities of the emergency action:
 - (a) Ombudsman within the Department of Aging or local area agency on aging; and
 - (b) Local Department of Human Services or Adult Protective Services.
- E. In the event of an emergency suspension, the Department may assist in the relocation of residents.
- F. A person aggrieved by the action of the Secretary under this regulation may appeal the Secretary's action by filing a request for a hearing consistent with Regulation .65 of this chapter.
- G. Show Cause Hearing.
 - (1) In addition to the right to request a hearing consistent with Regulation .65 of this chapter, a person aggrieved by the action of the Secretary under this regulation shall be provided with the opportunity for a hearing to show cause why the Department should lift the summary suspension.
 - (2) If requested in writing, the show cause hearing shall be held promptly within a reasonable time after the effective date of the order of summary suspension. The time limit for filing an appeal with the Office of Administrative Hearings to obtain an evidentiary hearing shall be followed by the filing of a request for a show cause hearing.
 - (3) The show cause hearing shall be a nonevidentiary hearing to provide the parties with an opportunity for oral argument on the summary suspension.
 - (4) The show cause hearing shall be conducted before the Secretary or a designee of the Secretary, who:
 - (a) Shall determine procedural issues;
 - (b) May impose reasonable time limits on each party's oral argument; and
 - (c) Shall make rulings reasonably necessary to facilitate the effective and efficient operation of the show cause hearing.
 - (5) At the conclusion of the show cause hearing, the Secretary or the Secretary's designee may:
 - (a) Affirm the order of summary suspension;

(b) Rescind the order of summary suspension;
(c) Enter into a consent order; or
(d) Enter into an interim order warranted by the circumstances of the case, including one providing for a stay of the summary suspension subject to certain conditions.

(6) After the show cause hearing, if the Secretary or the Secretary's designee decides to continue the summary suspension, the person aggrieved by the decision may request an evidentiary hearing before the Office of Administrative Hearings consistent with Regulation .65 of this chapter.

H. Hearing.

(1) The Office of Administrative Hearings shall conduct a hearing as provided in Regulation .65 of this chapter and issue a proposed decision within the time frames set forth in COMAR 28.02.01.

(2) An aggrieved person may file exceptions pursuant to COMAR 10.01.03.

(3) The Secretary shall make a final decision pursuant to COMAR 10.01.03.

(4) If the Secretary's final decision does not uphold the emergency suspension, the assisted living program may resume operation.

.64 Revocation of License.

A. The Secretary, for cause shown, may notify the assisted living program of the Secretary's decision to revoke the assisted living program's license. The revocation shall be stayed if a hearing is requested.

B. The Department shall notify the assisted living program in writing of the following:

(1) The effective date of the revocation;

(2) The reason for the revocation;

(3) The regulations with which the assisted living program has failed to comply that form the basis for the revocation;

(4) That the assisted living program is entitled to a hearing, if requested, and to be represented by counsel;

(5) That the assisted living program shall stop providing services on the effective date of the revocation if the assisted living program does not request a hearing;

(6) That the revocation shall be stayed if a hearing is requested; and

(7) That the assisted living program is required to surrender its license to the Department if the revocation is upheld.

C. The assisted living manager or their designee shall:

(1) Notify the residents and residents' representatives of the revocation;

(2) Make every reasonable effort to assist residents and resident representatives in making safe and appropriate discharge plans, including to other licensed assisted living programs[]; and

(3) Immediately[].

D. OHCO shall notify the following entities of the revocation:

(a) Ombudsman within the Department of Aging or local area agency on aging; and

(b) Local Department of Human Services or Adult Protective Services.

[[D.]] E. The Department may assist in the relocation of residents or require the assisted living program to use the services of and cover the costs of a consultant to arrange safe and appropriate discharges for residents.

[[E.]] F. A person aggrieved by the action of the Secretary under this regulation may appeal the Secretary's action by filing a request for a hearing in accordance with Regulation .65 of this chapter.

.65 Hearings.

A. A request for a hearing shall be filed with the Office of Administrative Hearings, with a copy to the Office of Health Care Quality of the Department, not later than 30 days after receipt of notice of the Secretary's action. The request shall include a copy of the Secretary's action.

B. A hearing requested under this chapter shall be conducted in accordance with State Government Article, Title 10, Subtitle 2, Annotated Code of Maryland, and COMAR 10.01.03 and 28.02.01.

C. The burden of proof is as provided in COMAR 10.01.03.28.

D. Unless otherwise stated in this chapter, the Office of Administrative Hearings shall issue a proposed decision within the time frames set forth in COMAR 28.02.01.

E. The aggrieved person may file exceptions as provided in COMAR 10.01.03.18.

F. A final decision by the Secretary shall be issued in accordance with COMAR 10.01.03.18J.

RYAN B. MORAN, DRPH, MHSA
Acting Secretary