**Title 10**

**DEPARTMENT OF HEALTH AND MENTAL HYGIENE**

**Subtitle 07 HOSPITALS**

**10.07.14 Assisted Living Programs**

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

***10.07.14.01* (text unchanged)**

***10.07.14.02***

**.02 Definitions.**

A. (text unchanged)

B. Terms Defined.

(1)—(5) (text unchanged)

**[**(6) "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.**]**

*(6) “Alzheimer’s dementia special care” means the care required by any individual with dementia including a probable or confirmed diagnosis of Alzheimer’s disease or a related disorder, regardless of their placement in the facility.*

(7) (text unchanged)

**[**(8) "Assessment" means a process of evaluating an individual's health, functional and psychosocial history, and condition using the Resident Assessment Tool.**]**

**[**(9)**]** *(8)* (text unchanged)

**[**(10) "Assisted living manager" means the individual who is:

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

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

**[**(11)**]** *(9)*—**[**(14)**]** *(12)* (text unchanged)

*(13) “Case management” means the delegating nurse or case manager’s collaborative process of assessment, planning, implementation, evaluation, coordination, and monitoring of services to meet the physical, functional, and psychosocial needs or an individual.*

**[**(15)**]** *(14)*—**[**(19)**]** *(18)* (text unchanged)

*(19) “Controlled Dangerous Substance (CDS)” means a drug or substance listed in Schedule I through Schedule V as defined in Criminal Law Article, §5-101, Annotated Code of Maryland.*

(20) (text unchanged)

(21) "Delegating nurse" means a registered nurse who:

(a) Is licensed to practice registered nursing in this State as defined in Health Occupations Article, Title 10, 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**[**.**]** *;*

*(c) Provides nursing oversight and case management to assure resident clinical needs are met;*

*(d) Provides delegation, supervision, and on-site instruction and guidance to certified nursing assistants, certified medication technicians, and unlicensed direct care staff; and*

*(e) Appropriately assigns nursing tasks to other licensed nursing staff.*

(22) (text unchanged)

(23)—(26) (text unchanged)

(27) Facilitating Access.

(a) (text changed)

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

(i) (text unchanged)

(ii) Cannot be paid for by the resident or the resident's **[**agent**]** *representative*.

(28) (text unchanged)

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

(a) Against the will of or without the consent of the resident or the resident's **[**agent**]***representative*; or

(b) For the use and benefit of a person other than the resident, if the resident or **[**agent**]** *representative* has not consented to the expenditure.

(30)—(32) (text unchanged)

(33) "Home health services" means those services provided under the provisions of Health-General Article, **[**§19-404,Annotated Code of Maryland, and COMAR 10.07.10**]** *§19-401 and §19-4A-01*.

(34)—(38) (text unchanged)

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

*(39) “Interim medication” means medication stored at the assisted living facility with the intention of expediting immediate initiation of emergency or nonemergency dosing until the pharmacy is able to provide a regular supply.*

(40) (text unchanged)

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

**[**(42)**]** *(41)—***[**(46)**]** *(45)* (text unchanged)

*(46) “Manager” means the individual who is:*

*a. Designated by the licensee to oversee the day-to-day operation of the assisted living program; and*

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

*(47) “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.*

**[**(47)**]** *(48)—***[**(50)**]** *(51)*

*(52) “Nursing assessment” means an assessment completed by a registered nurse that:*

*(a) Is comprehensive, systematic, and ongoing;*

*(b) Is the foundation for the analysis of data to determine:*

*(i) Nursing diagnoses;*

*(ii) Expected resident outcomes; and*

*(iii) The resident plan of care;*

*(c) Includes but is not limited to:*

*(i) Extensive initial and ongoing collection of resident data;*

*(ii) Past history, current health status, and potential changes to the resident’s condition;*

*(iii) Identification of alterations to the resident’s previous condition; and*

*(iv) Synthesis of biological, psychological, spiritual, and social aspects of the resident’s condition.*

**[**(51)**]** *(53)*  Nursing **[**Overview**]** *Oversight*.

(a) "Nursing **[**overview**]** *oversight*" means a process by which a registered nurse assures that the health and psychosocial needs of the resident are met.

(b) "Nursing **[**overview**]** *oversight*" includes:

(i)—(iv)(text unchanged)

**[**(52)**]** *(54)* —**[**(54)**]** *(56)* (text unchanged)

*(57) “Permanent intravenous access device” means an access device that is not temporary in nature and is secured in place by a means such as suturing or implantation under the skin.*

**[**(55)**]** *(58)* (text unchanged)

*(59) “Personal care services” means the range of assistance needed by a resident to complete activities of daily living.*

**[**(56)**]** *(60)* (text unchanged)

**[**(57)**]** *(61)*—**[**(59)**]** *(63)* (text unchanged)

*(64) “Program” means an assisted living program.*

**[**(60)**]** *(65)*—**[**(61)**]** *(66)*  (text unchanged)

**[**(62)**]** *(67)* "Relief personnel" means qualified individuals who have been hired to substitute for staff members:

(a) (text unchanged)

(b) When the **[**assisted living**]** manager or other staff is absent from the program for extended hours.

**[**(63)**]** *(68)* "Representative" means a person referenced in Regulation **[**.34**]** *.30* of this chapter.

**[**(64)**]** *(69)* (text unchanged)

**[**(65)**]** *(70)*  "Resident agreement" means a document signed by both the resident or the resident's 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 **[**.24**]** *.20* and **[**.25**]** *.21* of this chapter.

**[**(66)**]** *(71)* “Resident Assessment Tool" means*:*

*(a)*  Maryland's Assisted Living Resident Assessment **[**and Level of Care Scoring**]** Tool **[**(DHMH Form 4506)**]** that is:

**[**(a)**]** *(i)*  Incorporated by reference in Regulation .03 of this chapter; and

**[**(b)**]** *(ii)*  Used by assisted living facilities to assess the current health, physical, and psychosocial status of prospective and current residents.

*(b) Does not include or replace a nursing assessment.*

**[**(67)**]** *(72)* Restraint.

(a) "Restraint" means any chemical restraint or physical restraint as defined in §B(16) and (58) of this regulation.

(b) "Restraint" does not include a protective device.

**[**(68)**]** *(73)*  "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 **[**.56, .57, .60, .62, and .63**]** *.51, .52, .55, .57 and .58* of this chapter.

**[**(69)**]** *(74)*—**[**(70)**]** *(75)* (text unchanged)

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

*(76) “Service plan” means a written plan incorporated by reference in Regulation .03 of this chapter that is developed by the licensee, in conjunction with the resident or resident’s representative based upon the resident’s needs as determined by the:*

*(a) Resident Assessment Tool: and*

*(b) Nursing Assessment.*

**[**(72)**]** *(77)* (text unchanged)

**[**(73)**]** *(78)* "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 30 days per year**]**.

**[**(74)**]** *(79)* (text unchanged)

**[**(75)**]** *(80)* (text unchanged)

*(81) “Stage four pressure ulcer” means a localized injury to the skin and underlying tissue, as a result of pressure, which involves full thickness tissue loss with exposed bone, tendon or muscle, which often includes undermining and tunneling, and may include slough or eschar on some parts of the wound bed.*

*(82) “Stage three pressure ulcer” means a localized injury to the skin and underlying tissue, as a result of pressure, which involves full thickness tissue loss that does not expose bone, tendon or muscle and may include undermining, tunneling, and slough which does not obscure the depth of tissue loss.*

**[**(76)**]** *(83)*—**[**(77)**]** *(84)* (text unchanged)

**[**(78) "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.**]**

**[**(79)**]** *(85)* (text unchanged)

*10.07.14.03*

**.03 Incorporation by Reference.**

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

A. Maryland's Assisted Living Resident Assessment and Level of Care Scoring Tool, DHMH Form **[**#4506, November 2006**]**, *June 2012,* Maryland Department of Health and Mental Hygiene, Office of Health Care Quality;

B. Maryland Assisted Living Program Uniform Disclosure Statement, DHMH Form # 4662, **[**November 2006**]** *February 2009*, Maryland Department of Health and Mental Hygiene, Office of Health Care Quality;

*C. Maryland Assisted Living Service Plan, DHMH, June 2012, Maryland Department of Health and Mental Hygiene, the OHCQ;*

**[**C.**]** *D.* 42 CFR §§484.18, 484.30, and 484.32;

**[**D.**]** *E.*  Guidelines for Preventing the Transmission of Mycobacterium Tuberculosis in Health-Care Facilities, which is incorporated by reference in COMAR 10.07.02.01-1;

*F. Application for Controlled Dangerous Substances Registration, DHMH Form, May 2012, Maryland Department of Health and Mental Hygiene, Division of Drug Control;*

**[**E.**]** *G.*  The Life Safety Code, NFPA 101, which is incorporated by reference in COMAR 29.06.01; and

**[**F.**]** *H.* The State Fire Prevention Code, which is incorporated by reference in COMAR 29.06.01.

*10.07.14.04*

**.04 License Required.**

A.—C. (text unchanged)

D. The Secretary shall issue a license for a specified number of beds **[**and a specified level of care. A licensee may not provide services beyond its licensed authority**]**.

*E. A program shall include residents admitted for short-term residential care and family members who are cared for by program staff in the program’s census, which shall not exceed the licensed number of beds.*

*F. A licensee may not provide services beyond its licensed authority.*

**[**E.**]** *G.*  The Secretary may issue a joint license with a local health department under this chapter.

**[**F. Posting of License. An assisted living**]**

*H. A program shall conspicuously post its license at the facility.*

**[**G.**]** *I.* Failure to comply with this chapter and any other applicable State and local laws and regulations is grounds for sanctions, as specified in Regulations .56—.64 of this chapter.

*10.07.14.05*

**[.05 Levels of Care.**

A. A licensee 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 and each subsequent renewal, an applicant shall request approval to provide services at one of the three levels of care set forth in §G of this regulation. An applicant or licensee shall demonstrate that it has the capacity to provide the level of care requested either directly or through the coordination of community services.

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

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

E. The Department may approve or deny the request. If an applicant or licensee is aggrieved by the Department's decision, the applicant or licensee may appeal by filing a request for a hearing consistent with Regulation .64 of this chapter.

F. As provided in Regulation .14C of this chapter, the resident's care needs shall determine the need, amount, frequency of nursing overview by the registered nurse, and the need for on-site nursing services as well as when awake overnight staff is not required. The Department may approve a waiver of the requirement for awake overnight staff when the facility has demonstrated to the Department its use of an effective electronic monitoring system. The licensee shall comply with applicable requirements of COMAR 10.27.09.

G. Levels of Care.

(1) The applicant or licensee shall request one of the levels of care listed in §G(2)—(4) of this regulation. Program staff shall have the abilities necessary to provide the level of care and the abilities to provide the services listed for the level of care selected by the applicant or licensee.

(2) Level 1: Low Level of Care.

(a) An assisted living program that accepts a resident who requires a low level of care shall have staff with the abilities to provide the services listed in §G(2)(b)—(g) of this regulation, and the program shall provide those services.

(b) 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.

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

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

(e) 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.

(f) 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.

(g) 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) An assisted living program that accepts a resident who requires a moderate level of care shall have staff with the abilities to provide the services listed in §G(3)(b)—(g) of this regulation, and the program shall provide those services.

(b) 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.

(c) 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.

(d) 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.

(e) 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.

(f) 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.

(g) 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) An assisted living program that accepts a resident who requires a high level of care shall have staff with the abilities to provide the services listed in §G(4)(b)—(g) of this regulation, and the program shall provide those services.

(b) 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.

(c) 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.

(d) 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.

(e) 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.

(f) 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.

(g) Social and Recreational Interests. Staff shall have the ability to provide or ensure ongoing access to comprehensive social and recreational services.**]**

*10.07.14.06*

**[.06] *.05* Restrictions.**

A.—C. (text unchanged)

*D. An assisted living program dually licensed as an adult medical day care programs or any other licensed program must meet all requirements for both programs. One program’s activities shall not infringe upon the operation of the other program.*

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

*10.07.14.07*

**[.07]*.06* Licensing Procedure.**

A. Application for License.

(1)—(2) (text unchanged)

(3) Fees. The annual license fee schedule for **[**assisted living**]** programs is as follows:

(a) 1—**[**4**]***3* beds: $**[**200**]** *100* **[**annually**]**;

(b) **[**5**]***4*—15 beds: $**[**300**]** *150* **[**annually**]**;

(c) 16—49 beds**]** *or more beds*: $**[**450annually;**]** *150 plus $8 per bed for each bed over 15* *.*

**[**(d) 50—99 beds: $650 annually;

(e) 100—149 beds: $1,000 annually; and

(f) 150 plus beds: $1,500 annually.**]**

(4) (text unchanged)

*(5) If a facility fails to file a timely renewal application, the facility shall pay a late fee of $10 per day, which shall begin accruing on the license expiration date, in addition to the renewal fee.*

**[**(5)**]** *(6)* At a minimum, the applicant shall provide:

(a)—(c) (text unchanged)

(d) *Signed disclosure form, provided by the Department, of any previous convictions and* **[**Documentation**]** *documentation* of any conviction **[**and current criminal background check or criminal history records check**]** of the owner, applicant, **[**assisted living**]** manager, alternate **[**assisted living**]** manager, other staff, and any household member;

(e)—(f) (text unchanged)

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

*(g) The program’s location and the name of the proposed manager;*

(h)—(i) (text unchanged)

B. Additional Requirements for Initial Licensure.

(1) The Secretary shall require an applicant for initial licensure to submit:

(a) (text unchanged)

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

(c)—(d) (text unchanged)

(2)—(3) (text unchanged)

(4) The Department reserves the right to deny licensure for **[**an assisted living**]** *a* program based on the owner's or manager's prior:

(a) History of violations of assisted living regulations; **[**or**]**

**[**(b) Criminal history that the Department determines may be potentially harmful to residents.**]**

*(b) Convictions of the following crimes:*

*(i) a conviction as described in 42 U.S.C. § 1320A–7(A);or*

*(ii) a conviction as described in Criminal Law Article, §14-101, Annotated Code of Maryland; or*

*(c) Behavior which shows the owner or manager cannot be trusted to comply with statutes and regulations related to the operation of assisted living programs.*

*(5) In making a determination about a license application, the Department shall consider the following factors:*

*(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;*

*(d) Subsequent work history;*

*(e) Employment and character references; and*

*(f) Other evidence that demonstrates whether the applicant poses a threat to the public health or safety.*

**[**(5)**]** *(6)*—**[**(7)**]** *(8)* (text unchanged)

**[**(8)**]** *(9)* 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 **[**.64**]** *.59* of this chapter.

C. Duration of License.

(1) (text unchanged)

(2) License Renewal. A licensee shall apply for license renewal:

(a) At least **[**30**]** *14* days before the expiration of its current license;

(b)—(c) (text unchanged)

D. Licenses for Less than 2 Years. The Department may issue a provisional license if:

(1) **[**An assisted living**]** *A* program is not in full compliance with this chapter:

(a) (text unchanged)

(b) The applicant or licensee 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; **[**or**]**

(2) Departmental administrative delays have occurred which:

(a) (text unchanged)

(b) Have prevented the Department from completing its licensure activity**[**.**]** *; or*

*(3) A licensee has failed to file a timely and sufficient renewal application but has subsequently file a sufficient renewal application and paid all required fees.*

*10.07.14.08*

**[.08]*****.07* Changes in a Program that Affect the Operating License.**

A. Increase in Capacity or Name Change.

(1) During the license period, a licensee may not increase capacity, change its name, or change the name under which the program is doing business, without the Department's approval. When there is a change of program ownership or a change of location, the licensee shall submit a new application and written request for a new license and an application fee, as established in

Regulation **[**.07A(3)**]** *.06A(3)*  of this chapter to the Department.

(2) Sale, Transfer, or Lease of a Facility.

(a) (text unchanged)

**[**(b) 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.**]**

**[**(c)**]** *(b)* (text unchanged)

(3) The Department shall issue a new license on approval of:

(a) **[**A change in licensure**]** *Licensure* capacity;

(b) A change in the name of the licensee; *or*

(c) **[**A change in the**]** *The* name under which the program is doing business; or

**[**(d) A change in the level of care provided.**]**

(4) (text unchanged).

B. Voluntary Closure or Change of **[**Assisted Living**]** Program Ownership or Location.

(1)—(8) (text unchanged)

C.—D. (text unchanged)

*E. A license is void and shall be returned to the Department by certified mail if the program ceases to provide services to residents for a period of 120 consecutive days.*

*F. Surrender of License.*

*(1) Unless the Department agrees to accept the surrender of a license, a licensee 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.*

*(3) If a sufficient renewal application had not been filed at least 14 days before a license has expired, after the license expires the licensee shall cease operating the assisted living program**and relocate residents in accordance with the Department’s instructions unless a provisional or renewal license has been granted in accordance with Regulation .06D of this chapter.*

*10.07.14.09*

**.09 Licensure Standards Waiver.**

A. The Department may grant **[**an assisted living program**]** *a licensee* 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 .22I 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 .22I of this chapter, the Department may grant a waiver consistent with the process established in Regulation .22 of this chapter.**]**

**[**C.**]** *B.* (text unchanged)

**[**D.**]** *C.*  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) (text unchanged)

**[**E.**]** *D.*  Grant or Denial of Licensure Standards Waiver.

(1) (text unchanged)

(2) If the Department determines that the conditions of §**[**E**]** *D*(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.**]** *E.* Written Decision. 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 days from receipt of the request and all appropriate supporting information. If the Department grants the waiver, the written decision shall include the waiver's duration and any conditions imposed by the Department.

**[**G.**]** *F.*  If **[**an assisted living program**]** *a licensee* 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.

*10.07.14.10*

**[.10] *.09* Uniform Disclosure Statement.**

A. When **[**an assisted living program**]**  *a licensee* changes the services **[**reported**]** on its Uniform Disclosure Statement filed with the Office of Health Care Quality **[**under Regulation .07A(2)(b) of this chapter**]**, the **[**program**]** shall file an amended Uniform Disclosure Statement with the Office within 30 days of the change in services.

B. If an individual requests a copy of **[**an assisted living**]** *a* program's Uniform Disclosure Statement, the **[**assisted living program**]** *licensee* 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**]** *A licensee* shall provide a copy of the current Uniform Disclosure Statement to individuals as part of the program's marketing materials.

*10.07.14.11*

**[.11] *.10* Investigation by Department.**

A. **[**Assisted Living Program to Be**]** Open for Inspection.

(1)—(2) (text unchanged)

B. Records and Reports.

(1) (text unchanged)

(2) Maintenance.

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

(i)—(iv) (text unchanged)

(b)—(c) (text unchanged)

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

(1)—(2) (text unchanged)

D. Notice of Violations.

(1) If a complaint investigation or survey inspection identifies a regulatory violation, the Secretary shall issue a notice:

(a) (text unchanged)

(b) Requiring the **[**assisted living program**]** *the licensee* to submit an acceptable plan of correction within 10 calendar days of receipt of the notice of violation or deficiency;

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

(d) Offering the **[**assisted living program**]** *the licensee* the opportunity for informal dispute resolution (IDR).

(2)—(3) (text unchanged)

E. (text unchanged)

*10.07.14.12*

**[.12] *.11* Compliance Monitoring.**

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

B.—C. (text unchanged)

D. **[**An assisted living**]** *A* program shall be surveyed on-site, at least annually. The Department may extend the time between surveys to up to 15 months if it determines that a licensee has demonstrated satisfactory compliance with this chapter.

E. (text unchanged)

*10.07.14.13*

**[.13] *.14* Administration.**

A. Quality Assurance.

(1) The **[**assisted living program**]** *manager* shall develop and implement a quality assurance plan.

(2) Quality Assurance Plan.

(a) The **[**assisted living**]** manager and the delegating nurse *or case manager* shall meet at least every 6 months to review the:

(i)—(iii) (text unchanged)

(iv) Written recommendations or findings of the consultant pharmacist, as required by Regulation **[**.29J**]** *.25G* of this chapter.

(b) The **[**assisted living**]** manager shall document the proceedings of the meeting referred to in §A(2)(a) 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 cooperate with the family council.

(2) The family council for **[**an assisted living**]** program may consist of the following members:

(a)—(b) (text unchanged)

C. Resident Councils.

(1) If **[**an assisted living**]** program has a resident council, the **[**assisted living**]** program shall make reasonable attempts to cooperate with the residents' council.

(2) (text unchanged)

*10.07.14.14*

**[.14] *.13* Staffing Plan.**

A.—B. (text unchanged)

**[**C. Awake Overnight Staff. An assisted living program shall provide awake overnight staff when a resident's assessment using the Resident Assessment Tool, as provided in Regulation .21A or .26B of this chapter, indicates that awake overnight staff is required according to instructions on that tool. If a physician or assessing nurse, in the physician's or nurse's clinical judgment,

does not believe that a resident requires awake overnight staff, the physician or assessing nurse shall document the reasons in the area provided in the Resident Assessment Tool. The licensee shall retain this documentation in the resident's record.**]**

*C. A staffing schedule shall be maintained on-site which identifies the date, shift hours, and full name of all staff members scheduled to work.*

*D. The resident’s care needs shall determine:*

*(1) The services provided to the resident by the program, in accordance with §E of this regulation;*

*(2) When awake overnight staff is required;*

*(3) The need for on-site nursing services; and*

*(4) The need, amount, and frequency of nursing oversight by the registered nurse.*

*E. A program shall have staff with the ability to:*

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

*(2) Provide or ensure ongoing access to and coordination of comprehensive health services and interventions including nursing oversight;*

*(3) Provide or ensure comprehensive support as frequently as needed to compensate for any number of activities of daily living deficits;*

*(4) Provide or ensure assistance with taking medication;*

*(5) Administer necessary medication and treatment, including monitoring or arranging for monitoring of the effects of complex medication and treatment regimens;*

*(6) 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;*

*(7) Manage a variety of psychological or psychiatric episodes involving active symptoms, condition changes, or significant risks that may require skilled interpretation or immediate interventions; and*

*(8) Provide or ensure ongoing access to comprehensive social and recreational services.*

*F. Awake Overnight Staff.*

*(1) A licensee shall provide awake overnight staff when a Resident Assessment Tool, as provided in Regulation .18 of this chapter, indicates that a resident requires awake overnight staff.*

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

*(3) The licensee shall retain this documentation in the resident's record.*

**[**D.**]** *G.* Electronic Monitoring Systems.

(1) Upon the written recommendation of the **[**resident's physician or assessing nurse**]** *the health care practitioner*, the **[**assisted living program**]** may apply to the Department for a waiver in accordance with Regulation **[**.09**]** *.08* of this chapter to use an electronic monitoring system instead of awake overnight staff.

(2) (text unchanged)

(3) When a resident is assessed or reassessed using the Resident Assessment Tool, as provided in Regulation **[**.21A or .26B**]** *.18* of this chapter, the **[**physician or assessing nurse**]** *health care practitioner* shall review and document:

(a) (text unchanged)

*(4) The licensee shall comply with applicable requirements of COMAR 10.27.09.*

**[**E.**]** *H.* On-Site Nursing Requirements.

(1) **[**An assisted living**]** *A* program shall provide on-site nursing when a delegating nurse or **[**physician**]** *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 manager, delegating nurse *or case manager*, and resident's **[**physician**]** *health care fractioned* shall discuss any alternatives that could safely address the resident's needs. The **[**assisted living**]** manager shall document in the resident's record this discussion and all individuals who participated in the

discussion.

(3) 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 *or case manager*, and resident's **[**physician**]** *health care practitioner* of the change to the order. The assisted living manager shall document in the resident's record this change and the date of notification.

(4) If a manager fails to implement a nursing or clinical order without identifying and providing alternatives to the care or service order, the delegating nurse *or case manager* shall notify the resident's physician, the OHCQ, and the resident or, if appropriate, the legal representative of the resident.

(5) 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**]** *the licensee*.

**[**F.**]** *I.* On-site nursing personnel shall work in partnership with the delegating nurse *or case manager* and **[**assisted living**]** program staff to ensure:

(1)—(3) (text unchanged)

*10.07.14.15*

**[.15 Assisted Living Manager.**

A. Qualifications.

(1) 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;

(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 the 80-hour assisted living manager training program;

(d) Be free from tuberculosis in a communicable form in accordance with Guidelines for Preventing the Transmission of Mycobacterium Tuberculosis in Health-Care Facilities (that is, tuberculin skin testing (TST) upon hire or annual sign/symptom screen for those individuals with previous positive TST);

(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 criminal 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, when required for:

(i) Basic first aid by a certified first aid instructor; and

(ii) Basic cardiopulmonary resuscitation (CPR) by a certified CPR instructor.

(2) 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 licensee 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 criminal 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 .26 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 OHCQ:

(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; and

(l) Notifying the resident and, if applicable, the resident's legally authorized 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.**]**

 ***.14 Requirements for All Staff***

*A. The licensee shall employ or contract with sufficient numbers of staff to ensure that the program is capable of meeting the requirements of this chapter, and all other applicable laws and regulations, in a manner consistent with the philosophy of assisted living and in compliance with generally accepted standards of care for the specific conditions of the residents the program intends to serve.*

*B. 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 §C and §D of this regulation.*

*C. Age Requirements. At a minimum:*

*(1) The manager and alternate manager shall be 21 years old or older; and*

*(2) All other staff shall be 18 years old or older.*

*D. The manager, alternate manager, and all other staff shall at a minimum:*

*(1) Be free from tuberculosis in a communicable form in accordance with Guidelines for Preventing the Transmission of Mycobacterium Tuberculosis in Health-Care Facilities (that is, tuberculin skin testing (TST) or chest x-ray, if indicated, within one year before employment or annual sign/symptom screen for those individuals with previous positive TST);*

*(2) Be immune to measles, mumps, rubella, and varicella (chicken pox) as evidenced by antibody serology or vaccine history;*

*(3) Be offered the influenza vaccine annually as evidenced by a documented acceptance or refusal of the vaccine during the recognized influenza season;*

*(4) Have a criminal background check or criminal history records check completed in accordance with Health-General Article, Title 19, Subtitle 19, Annotated Code of Maryland, within 30 days before employment, which includes a written evaluation, by the manager, of any criminal history and its relationship to assigned job duties, for any staff with a documented criminal history;*

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

*(6) Receive initial training, prior to assuming responsibility for resident care, in:*

*(a) The health and psychosocial needs of the population being served;*

*(b) The resident assessment process;*

*(c) The use of service plans;*

*(d) Cuing, coaching, and monitoring residents who self-administer medications, with or without assistance;*

*(e) Providing assistance with ambulation, personal hygiene, dressing, toileting, and feeding; and*

*(f) Resident rights;*

*(7) Receive initial training, prior to assuming responsibility for resident care, 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, based on criteria published by the Centers for Disease Control;*

*(c) Emergency disaster plans;*

*(d) Basic food safety;*

*(e) Environmental safety;*

*(f) Cognitive impairment and mental illness, as described in §I of this regulation; and*

*(g) Responding to choking and cardiopulmonary arrests, including hands-on exercises.*

*(8) Have current certification, including documented expiration dates, if involved in direct resident care, in:*

*(a) Basic first aid by a first aid instructor certified by a national organization; and*

*(b) Basic cardiopulmonary resuscitation (CPR), including a hands-on component, by a CPR instructor certified by a national organization;*

*(9) Hold appropriate licensure or certification as required by law; and*

*(10) Have additional Alzheimer’s/dementia training initially and annually, beyond the requirements of this regulation, as specified in Regulation .27 of this chapter, for all staff who work in Alzheimer’s/dementia special care units, including the designated unit manager.*

*E. A staff member who completes an approved 80-hour manager training course shall be exempt from the required annual trainings set forth in §D(7) of this regulation for a period of 4 years.*

*F. Proof of training shall include:*

*(1) Date of class;*

*(2) Course content;*

*(3) Documentation of successful completion of the training content;*

*(4) Signatures of the trainer and attendees; and*

*(5) Qualifications and contact information for the trainer.*

*G. Training may be provided through various means including:*

*(1) Classroom instruction;*

*(2) In-service training;*

*(3) Internet courses;*

*(4) Correspondence courses;*

*(5) Pre Recorded training; or*

*(6) Other training methods.*

*H. When the training method does not involve direct interaction between faculty and participant, the program shall make available to the participant during the training a trained individual to answer questions and respond to issues raised by the training.*

*I. Training in Cognitive Impairment and Mental Illness.*

*(1) When job duties involve the provision of personal care services as defined in Regulation .02B of this chapter, staff shall receive a minimum of 5 hours of initial training on cognitive impairment and mental illness. The training shall be designed to meet the specific needs of the program's population, as determined by the manager, including the content set forth in Regulation .16A(8) and (9)(a)-(c).*

*(2) When job duties do not involve the provision of personal care services, staff shall receive a minimum of 2 hours of initial training on cognitive impairment and mental illness. The training shall include the content set forth in Regulation .16A(8)(a), (b), and (c)(iii).*

*(3) Ongoing training in cognitive impairment and mental illness shall be provided annually consisting of, at a minimum:*

*(a) 2 hours for staff whose job duties involve the provision of personal care services; and*

*(b) 1 hour for staff whose job duties do not involve the provision of personal care services.*

*10.07.14.16*

**[.16 Assisted Living Managers — Training Requirements.**

A. In addition to the requirements in Regulation .15 of this chapter, by January 1, 2006, an assisted living manager of a program that is licensed for five beds or more shall complete a manager training course that is approved by the Department.

B. The completed manager's training course shall:

(1) Consist of at least 80 hours of course work and include an examination;

(2) Consist of training programs that include direct participation between faculty and participants; and

(3) Include not more than 25 hours of training through Internet courses, correspondence courses, tapes, or other training methods that do not require direct interaction between faculty and participants.

C. An assisted living manager employed in a program that is licensed for five or more beds 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 .56 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 within 6 months;

(2) Is temporarily serving as an assisted living manager for less than 45 days, unless the Department has granted an extension of the 45 days, 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 this State for 1 year before January 1, 2006; or

(4) Is licensed as a nursing home administrator in this 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.

G. A program may request an extension from the Department to allow an individual to serve as an assisted living manager for longer than 45 days if the program has shown good cause for the extension.**]**

*.15 Manager and Alternate Manager.*

*A. In addition to the requirements in Regulation .14**of this chapter, the manager and alternate manager shall at a minimum:*

*(1) Possess a high school diploma, a high school equivalency diploma, or other appropriate education and have experience to conduct the responsibilities specified in §I of this regulation;*

*(2) Have:*

*(a) A 4-year, college-level degree;*

*(b) 2 years experience in a health care related field and 1 year of experience as a manager or alternate manager; or*

*(c) 2 years experience in a health care related field and successful completion of the 80-hour manager training course;*

*(3) For programs licensed for 5 beds or more, have:*

*(a) Completed an initial 80-hour manager training course, from an institute approved by the Maryland Higher Education Commission; and*

*(b) Completed 20 hours of continuing education every 2 years, from vendors approved by the Department, in addition to the required annual trainings described in Regulation .14D(7) of this chapter; or*

*(c) Completed 10 hours of continuing education every 2 years, from an institute approved by the Maryland Higher Education Commission, in addition to the required annual trainings described in Regulation .14D(7) of this chapter.*

*B. A manager or alternate manager who completes an approved 80-hour manager training course shall be exempt, for a period of 4 years, from the:*

*(1) Continuing education requirements set forth in this section; and*

*(2) Required annual trainings set forth in Regulation .14D(7) of this chapter.*

*C. The completed manager's training course shall:*

*(1) Consist of at least 80 hours of course work and include an examination;*

*(2) Consist of training courses that include direct participation between faculty and participants; and*

*(3) Include not more than 25 hours of training through Internet courses, correspondence courses, tapes, or other training methods that do not require direct interaction between faculty and participants.*

*D. A manager or alternate manager who has completed the 80-hour manager’s training course and passed the examination shall be presumed to have met the knowledge requirements of Regulation .14D(6)-(7).*

*E. The training requirements of §A(3) of this regulation do not apply to an individual who:*

*(1) Is employed by a program and has enrolled in an approved manager training course that the individual expects to complete within 6 months;*

*(2) Is temporarily serving as a manager or alternate manager for less than 45 days, unless the Department has granted an extension of the 45 days, due to a manager or alternate manager leaving employment and before the hiring of a permanent manager;*

*(3) Has been employed as a manager or alternate manager in this State for 1 year before January 1, 2008; or*

*(4) Is licensed as a nursing home administrator in this 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 manager or alternate 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.*

*G. The Department may determine that an individual is not sufficiently qualified to serve as a manager or alternate manager if that individual's managerial or administrative experience, or education, is not sufficient to perform the responsibilities set forth in §I of this regulation.*

*H. The manager shall be on-site or available on call. The alternate manager shall be available to assume the responsibilities described in §I of this regulation when the manager is not available.*

*I. Duties. The manager shall have overall responsibility for:*

*(1) Notifying the delegating nurse/case manager within 2 hours of all significant resident changes, hospitalizations, and returns to the facility;*

*(2) The management of the program, including recruiting, hiring, training, and supervising all staff, and ensuring that either a criminal history records check or a criminal background**check is conducted consistent with the requirements of Health-General Article, Title 19, Subtitle 19, Annotated Code of Maryland;*

*(3) The development and implementation of a staffing plan, which includes orientation and ongoing training 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;*

*(4) The development and implementation of all policies, programs, and services as required by this chapter;*

*(5) 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 .22 of this chapter;*

*(6) Ensuring that there is appropriate coordination of all components of a resident's service plan, including necessary transportation and delivery of needed supplies;*

*(7) Ensuring that there is appropriate oversight and monitoring of the implementation of each resident's service plan;*

*(8) Ensuring that all record keeping conforms to the requirements of this chapter and other applicable laws;*

*(9) Implementing a nursing or clinical order of the delegating nurse/case manager or documenting in the resident's record why the order should not be implemented;*

*(10) Collaborating with the pharmacist, delegating nurse/case manager, and prescriber to ensure the pharmacy recommendations as described in Regulation .25 of this chapter are implemented or documenting in the resident's record why the recommendation should not be implemented;*

*(11) Ensuring that all requirements of this chapter and other applicable laws are met;*

*(12) Notifying the OHCQ:*

*(a) When the manager terminates the program's contract with or employment of a delegating nurse/case manager; and*

*(b) Of the reason why the contract or employment was terminated;*

*(13) Notifying the resident, the resident's representative, or interested family member of any:*

*(a) Significant change in condition of the resident;*

*(b) Adverse event that may result in a change in condition;*

*(c) Outcome of the resident's care that results in an unanticipated consequence; and*

*(d) Corrective action, if any; and*

*(14) Ensuring all residents and staff are aware of the option of an annual influenza vaccine as evidenced by documented acceptance or refusal of the vaccine, and documented surveillance of non-immune staff during the recognized flu season.*

*10.07.14.17*

**[.17 Assisted Living] *.16* Manager Training[ — Basic Courses]** ***Course*.**

A. **[**The assisted living manager's training shall include the following courses:**]** *The 80-hour manager’s training shall include the following courses:*

(1)—(8) (text unchanged)

(9) End of life care, 4 hours, including:

(a)—(b) (text unchanged)

*(c) Medial Orders for Life-Sustaining Treatment (MOLST)*

**[**(c)**]** *(d)* Power of attorney;

**[**(d)**]** *(e)* Appointment of a health care agent;

**[**(e)**]** *(f)* Living will;

**[**(f)**]** *(g)* Pain management;

**[**(g)**]** *(h)* Providing comfort and dignity; and

**[**(h)**]** *(i)* Supporting the family;

(10)—(13) (text unchanged)

B. A person seeking to offer the **[**assisted living**]** manager training course shall obtain approval **[**by the Department by:**]** *through the Maryland Higher Education Commission.*

**[**(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.**]**

*10.07.14.18*

**[.18 Alternate Assisted Living Manager.**

An alternate individual 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(2)—(8) of this chapter.**]**

***.17 Nursing Oversight.***

*A. Nursing oversight includes nursing assessment, case management responsibilities, and coordination and monitoring of ancillary nursing or therapy services. Nursing oversight responsibilities shall only be completed by a registered nurse.*

*B. Contracts.*

*(1) The licensee shall have a current and signed agreement with a:*

*(a) Primary delegating nurse/case manager for services identified in §A of this regulation; and*

*(b) Alternate delegating nurse/case manager to be available on call when the primary delegating nurse/case manager is not available.*

*(2) If either nurse is an employee of the program, the employee's job description may satisfy this requirement.*

*C. The licensee shall maintain documentation that the primary and alternate delegating nurse/case managers have completed the mandatory training course developed by the Board of Nursing.*

*D. The primary or alternate delegating nurse/case manager shall be available on call at all times.*

*E. Nursing assessments shall be completed using forms approved by the Department or shall include substantially equivalent content.*

*F. Duties. The delegating nurse/case manager shall:*

*(1) Have overall responsibility for case management, including the clinical oversight of resident care in the program;*

*(2) Perform an initial nursing assessment at the time of the resident’s admission;*

*(3) Be on-site at least every 45 days to observe and assess each resident unless the delegating nurse/case manager determines the resident needs more frequent review;*

*(4) Conduct a nursing assessment within 48 hours, but not later than required by nursing practice and the resident’s condition, of:*

*(a) A significant change in the resident's mental or physical status; or*

*(b) A resident’s return from a:*

*(i) A significant hospitalization resulting in increased monitoring needs or a change in treatment or medication; or*

*(ii) A stay in any skilled facility;*

*(5) Appropriately delegate nursing tasks to certified medication technicians, certified nursing assistants, and other unlicensed care providers, in compliance with the Nurse Practice Act;*

*(6) Provide instruction and direction to the manager and certified medication technician regarding medication monitoring for any medications the resident receives;*

*(7) Establish a system to assure all certified medication technicians have a current and active certified medication technician certificate; and*

*(8) With the exception of certified nursing assistants (CNAs) and geriatric nursing assistants (GNAs), document each direct care staff person’s competency in providing assistance with activities of daily living prior to the staff person assuming responsibility for resident care.*

*(9) Determine and document in the resident’s record if a new Resident Assessment Tool shall be completed based on the delegating nurse/case manager’s evaluation of the current Resident Assessment Tool;*

*(10) Develop, implement, and evaluate resident service plans in collaboration with the manager;*

*(11) Issue nursing or clinical orders and direct changes to resident service plans, based upon the needs of residents;*

*(12) Direct the manager to provide awake overnight staff if that need is based upon the nursing assessment;*

*(13) Direct the manager to modify staffing to address resident medication management and supervision including the need, if any, for awake overnight staff;*

*(14) Appropriately assign nursing tasks to other licensed nursing staff;*

*(15) Determine through assessment if a resident is capable of self-administration or, although capable, requires a reminder or physical assistance, or requires that medications be administered;*

*(16) Reassess residents who self-administer medications, at least quarterly, for the continued ability to safely self-administer medications with or without assistance;*

*(17) Recommend changes, as appropriate, to the appropriate authorized prescriber and the manager or designee, for residents who self-administer medications;*

*(18) Collaborate with the manager in the establishment of a laboratory/diagnostic monitoring schedule as determined by each resident’s authorized prescriber, and assist the manager in assuring results of the laboratory diagnostic studies are reported to the authorized prescriber in an accurate and timely manner;*

*(19) Assist the manager in the development of a medication management system for the program, which includes at a minimum, establishing a system for the facility that assures:*

*(a) Resident medications are ordered from the pharmacy in a timely manner;*

*(b) Resident medications are received at the facility in a timely manner;*

*(c) Resident medications are stored appropriately; and*

*(d) There is an organized consistent system for safe, timely administration of medications to residents;*

*(20) Collaborate with the pharmacist to ensure the pharmacy recommendations as set forth in Regulation .25 of this chapter are implemented;*

*(21) Notify the resident's health care practitioner, the OHCQ, and the resident, or resident representative, when a manager fails to implement nursing or clinical orders without identifying alternatives to the care or service order;*

*(22) Meet with the manager at least every 6 months to conduct a quality assurance review; and*

*(23) Notify the OHCQ:*

*(a) If the delegating nurse/case manager's contract or employment with the licensee is terminated; and*

*(b) Of the reason why the contract or employment was terminated.*

*G. In programs where nursing tasks are not delegated to unlicensed staff:*

*(1) The delegating nurse/case manager shall be exempt from the provisions of §F(3) and (5) - (8) of this regulation; and*

*(2) The delegating nurse/case manager shall be on-site at least every 90 days to observe and assess each resident unless the delegating nurse/case manager determines the resident needs more frequent review.*

*10.07.14.19*

**[.19 Other Staff — Qualifications.**

A. The licensee shall employ or contract with sufficient numbers of other staff to ensure that the assisted living program is capable of meeting the requirements of this chapter, and all other applicable laws and regulations, in a manner consistent with the philosophy of assisted living and in compliance with generally accepted standards of care for the specific conditions of the residents the assisted living program intends to serve.

B. Qualifications of Other Staff. At a minimum, all other staff shall:

(1) Be 18 years old or older unless licensed as a nurse or the age requirement is waived by the Department for good cause shown;

(2) As evidenced by a physician's statement be free from:

(a) Tuberculosis, measles, mumps, rubella, and varicella through appropriate screening procedures such as tuberculosis skin tests, positive disease histories, or antibody serologies; and

(b) Any impairment which would hinder the performance of assigned responsibilities;

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

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

(5) Participate in 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;

(6) Receive 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;

(d) Emergency disaster plans; and

(e) Basic first aid by a certified first aid instructor;

(7) Have 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) Hold 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 .28D of this chapter, an employee:

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

(2) May work for 7 days before demonstrating to the delegating nurse that they have the competency to provide these services, if the employee is performing tasks 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 CPR training shall be provided on an initial and ongoing basis to a sufficient number of staff by a certified CPR instructor 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) Signatures of the trainer and attendees; and

(5) Qualifications and contact information for the trainer.

G. Training in Cognitive Impairment and Mental Illness.

(1) When job duties involve the provision of personal care services as described in Regulation .28D of this chapter, employees shall receive a minimum of 5 hours of training on cognitive impairment and mental illness within the first 90 days of employment.

(2) The training shall be designed to meet the specific needs of the 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;

(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 families needs; 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 .28D of this chapter, employees shall receive a minimum of 2 hours of training on cognitive impairment and mental illness within the first 90 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 .28D 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 .28D of this chapter.

H. The training that is described in §F of this chapter 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.

I. 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.**]**

*10.07.14.20*

**[.20 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 days;

(2) Be available on call 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 OHCQ:

(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. 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 physician, the OHCQ, and the resident, or if applicable, the legal representative of the resident.**]**

*10.07.14.21*

**[.21 Preadmission Requirements.**

A. Before Move In.

(1) Before admission the assisted living manager or designee shall determine whether:

(a) The resident may be admitted under the assisted living program's licensure category; and

(b) 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 before admission, the assisted living program shall collect, on the Resident Assessment Tool written information about a potential resident's physical condition and medical status.

(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 who shall certify that the information on the Assessment reflects 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 days of 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 and other needed medications;

(g) Current and other needed treatments and services for medical conditions and related problems;

(h) Current nutritional status, including height, weight, risk factors, and deficits;

(i) Diets ordered by a physician;

(j) Medically necessary limitations or precautions; and

(k) Monitoring or tests that need to be performed or followed up after admission.

C. Functional Assessment. Within 30 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.

D. 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 .14C of this chapter.

E. Short-Term Residential Care Requirements.

(1) For persons admitted for short-term residential care, only the following are required:

(a) Current physical condition and medical status as specified in §B(4) of this regulation, and functional assessment as specified in §C of this regulation; and

(b) A resident agreement, in accordance with Regulations .24 and .25 of this chapter.

(2) Other than the information required in §D(1) of this regulation, additional information is not required for subsequent short-term admissions if the resident or the resident's representative certifies that there has been no significant change in the resident's service needs.

F. 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 days, with notification to the Department of the placement within 48 hours.**]**

*10.07.14.22*

**[.22 Resident-Specific Level of Care Waiver.**

A. A licensee 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 licensee has authority to provide; or

(2) The resident would require care that falls into one of the categories set forth in §I of this regulation.

B. A licensee 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 days.

(2) The licensee 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 days.

D. When requesting a resident-specific waiver, the licensee 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 .46A 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 §J of this regulation, the licensee shall, at a minimum, comply with certain federal Medicare requirements for home health agencies referenced in 42 CFR §§484.18, 484.30, and 484.32.

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) Licensee 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 licensee's bed capacity for residents whose needs exceed the level of care for which the licensee 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 §J 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 §I 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 20 business days from receipt of the waiver request.

(2) Informal Dispute Resolution.

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

(i) Submitting a written request to the Department within 5 business 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's appropriate representative within 5 business 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 informal dispute resolution is not:

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

(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 licensee 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 licensee shall submit a response with an appropriate plan of action for approval by the Department.

(ii) If the Department does not approve the licensee's plan of action, the Department shall notify the licensee 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 licensee 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 a licensee holds to ensure that the licensee 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 licensee if, at any time, the Department determines that:

(1) The licensee 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 a licensee holds necessitates a change in licensure category.

I. 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 aggressive adjustment of medications and treatments where there is the presence of, or risk for, a fluctuating acute condition;

(5) Monitoring of a chronic medical condition that is not controllable through readily available medications and treatments; or

(6) Treatment for a disease or condition which requires more than contact isolation.

J. 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.

K. The provisions of §I 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 §I of this regulation through the hospice program's plan of care.**]**

*10.07.14.23*

**[.23 Admission Requirements.**

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.**]**

***.18 Resident Assessment Tool.***

*A. Preadmission.*

*(1) Within 30 days before admission, the manager or designee, in collaboration with the delegating nurse/case manager shall determine whether the resident’s needs can be met by the program and whether the resident may be admitted. This decision shall be based on completion of the Resident Assessment Tool and nursing assessment.*

*(2) The Resident Assessment Tool and nursing assessment shall be used to:*

*(a) Form the basis for development of the resident's service plan; and*

*(b) Determine whether the resident needs awake overnight monitoring.*

*(3) If the potential resident is admitted on an emergency basis by a local department of social services, the:*

*(a) Initial nursing assessment by the delegating nurse/case manager shall be completed within 48 hours of admission; and*

*(b) Resident Assessment Tool shall be completed as soon as possible but no later than 48 hours after the emergency admission.*

*B. Resident Assessment Tool. Information shall be based on an examination conducted by a primary physician, certified nurse practitioner, registered nurse, or physician assistant who shall certify that the information on the Resident Assessment Tool reflects the resident's current health status.*

*C. Reassessment.*

*(1) The Resident Assessment Tool shall be reviewed every 6 months and the review shall be documented by the delegating nurse/case manager and 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/case manager’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. Short-Term Residential Care Requirements.*

*(1) At the time an individual is initially admitted for short-term residential care, the following are required:*

*(a) A complete Resident Assessment Tool;*

*(b) An initial nursing assessment by the delegating nurse/case manager; and*

*(c) A resident agreement, in accordance with Regulations .20 and .21 of this chapter.*

*(2) If the individual is admitted for subsequent short-term admissions the delegating nurse/case manager shall:*

*(a) Complete a new initial nursing assessment; and*

*(b) Ensure that a new Resident Assessment Tool is completed if the delegating nurse/case manager determines there has been a significant change in condition.*

*E. A resident admitted as an emergency placement by a local department of social services is exempt from the Resident Assessment Tool requirements of this regulation if the resident is in temporary emergency shelter and services status, not to exceed 14 days, with notification to the Department of the placement within 48 hours.*

 ***.19 Resident-Specific Waiver.***

*A. An assisted living program may not provide services to an individual who is:*

*(1) Dangerous to the individual or others when the program would be unable to eliminate the danger through the use of appropriate treatment modalities;*

*(2) At high risk for health or safety complications which cannot be adequately managed;*

*(3) In need of a ventilator;*

*(4) Utilizing a temporary intravenous access device; or*

*(5) Being treated for a disease or condition which requires more than contact isolation.*

*B. A program shall not admit, without the Department’s approval of a resident-specific waiver request, an individual who at the time of initial admission, as established by the initial nursing assessment or Resident Assessment Tool, requires:*

*(1) Treatment of a stage three or stage four pressure ulcer;*

*(2) A permanent intravenous access device, including external hemodialysis catheters;*

*(3) Monitoring, testing, and aggressive adjustment of medications and treatments where there is the presence of, or risk for, a fluctuating acute condition; or*

*(4) Monitoring of a chronic medical condition that is not controllable through readily available medications and treatments.*

*C. A licensee may request a resident-specific waiver to continue providing services to a resident if an already admitted resident develops one of the care needs set forth in §B of this regulation.*

*D. A licensee may not continue providing services to a resident who requires care that falls into one of the categories set forth in §B of this regulation, without approval of the Department.*

*E. The provisions of §B 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 of this regulation through the hospice program's plan of care.*

*F. The licensee shall submit a waiver request on the Department-approved form within 7 days of the start of the condition requiring the waiver if the condition is likely to exceed 30 days.*

*G. When requesting a resident-specific waiver, the licensee shall demonstrate that:*

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

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

*H. Approval of Waiver Request.*

*(1) The Department may grant a resident-specific 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 .41A 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) When the Department grants a waiver to provide services to a resident whose needs fall within one of the categories in §B of this regulation, the licensee shall, at a minimum, comply with certain federal Medicare requirements for home health agencies referenced in 42 CFR §§484.18, 484.30, and 484.32.*

*I. Denial of Waiver Request.*

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

*(a) Licensee 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 for the continuation of services to a resident whose needs fall within one of the categories set forth in §A of this regulation.*

*(3) The Department's denial of a resident-specific waiver request does not prohibit the resident from being admitted to another program that is capable of meeting the resident's needs.*

*(4) If the Department initially denies a resident-specific 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.*

*J. The Department's Decision.*

*(1) The Department shall communicate the decision to grant or deny a resident-specific waiver to the manager in writing, including all appropriate supporting documentation, within 20 business days from receipt of the waiver request.*

*(2) Informal Dispute Resolution.*

*(a) If the resident or the resident's representative disagrees with the Department's denial of a waiver request, the resident or the resident's appropriate representative may request informal dispute resolution of the Department's decision by:*

*(i) Submitting a written request to the Department within 5 business 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's appropriate representative within 5 business days of receipt of the request whether or not the Department's decision to deny a waiver is sustained.*

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

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

*(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 granting of waivers could result in one or more residents experiencing a decline in their physical, functional, or psychosocial well-being.*

*(e) If the Department sustains the decision to deny the waiver request the Department shall notify the licensee of what action is required.*

 *(f) Decision to Sustain the Denial of Waiver Request.*

*(i)  The determination to sustain the denial of a waiver request may not be appealed.*

*(ii)  Failure of the licensee to comply with the Department's decision is grounds for the imposition of sanctions.*

*K. The Department shall, during a survey or other inspection, or when a resident-specific waiver request is made, review the number of resident-specific waivers a licensee holds to ensure that the licensee continues to be able to provide appropriate care to all of its residents. The Department shall notify the licensee if, at any time, the Department determines that the licensee is not providing appropriate care to its residents because of the number of resident-specific waivers it holds.*

*10.07.14.24*

**[.24]** ***.20* Resident Agreement — General Requirements and Nonfinancial Content.**

A. (text unchanged)

B. For a person admitted for short-term residential care, the **[**assisted living**]** program shall sign a resident agreement with the resident or resident's **[**agent**]** *representative* as set forth in this regulation excluding the provisions of §D**[**(7)**]** *(5)*(c) and **[**(8)**]** *(6)*(c) **[**and**]***,* (d) *and (e)* of this regulation.

C. The **[**assisted living program**]** *licensee* shall:

(1) Give a copy of the signed resident agreement to the resident and the resident's **[**agent**]** *representative*;

(2)—(3) (text unchanged)

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

**[**(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 .21 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(35), a statement indicating that if a resident's level of care, after admission, exceeds the level of care for which the licensee 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 at COMAR 32.02.01.01B(35), a statement indicating that if the resident's level of care, after admission to assisted living, exceeds the level of care for which the licensee is permitted to provide and a waiver for the continued stay of the resident has not been granted:

(a) The licensee may not provide any services to the resident beyond that which it is licensed to provide;

(b) If the licensee 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 32.02.02.31;

(5) A listing of services provided by the assisted living program and a listing of those services the assisted living program does not provide;

(6) An explanation of the assisted living program's complaint or grievance procedure;**]**

*(1) A listing of services provided by the program and a listing of those services the program does not provide;*

*(2) A policy on resident self-administration of medications;*

*(3) A policy on the administration of medications by a spouse or domestic partner to their spouse or domestic partner, when both parties reside in the same assisted living program;*

*(4) An explanation of the program's complaint or grievance procedure;*

**[**(7)**]** *(5)* Occupancy provisions including:

(a)—(h) (text unchanged)

(i) 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 **[**the conditions under which the program will hold a bed, relevant time frames, and payment terms, and the circumstances under which the program will no longer hold the bed;**]***:*

*(i) The conditions under which the program will hold a bed;*

*(ii) Relevant bed hold time frames of not less than 72 hours;*

*(iii) The circumstances under which the program will no longer hold the bed after the minimum 72-hour bed hold; and*

*(iv) Payment terms;*

(j) Provisions for continuous service in the event of an emergency; and

(k) An acknowledgment that the resident or the resident's representative has reviewed all **[**assisted living program**]** rules, requirements, restrictions, or special conditions that the program will impose on the resident;

**[**(8)**]** *(6)* 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) (text unchanged)

*(d) The procedures which the program shall follow if it intends to emergently discharge a hospitalized resident whose medical needs cannot be met by the facility without 30 days notice, including a provision under which the delegating nurse/case manager 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, as a transfer to the hospital is not, in and of itself, grounds for discharge;*

**[**(d)**]** *(e)* The procedures which the resident shall follow if the resident wishes to terminate the resident agreement, including a provision that the resident, or appropriate representative, shall give not less than 30 days notice to the **[**assisted living**]** program before the effective date of the termination, except in the case of a health emergency; and

**[**(e)**]** *(f)* (text unchanged)

**[**(9)**]** *(7)* (text unchanged)

*(8) Adult medical day care policies and availability;*

*(9) Any arrangements the resident has made, or wishes to make, with regard to burial, including but not limited to:*

*(a) Financial;*

*(b) Religious;*

*(b) Name of preferred funeral director, if any; and*

*(d) 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;*

*(8) Adult medical day care policies and availability;*

*(9) Any arrangements the resident has made, or wishes to make, with regard to burial, including but not limited to:*

*(a) Financial;*

*(b) Religious;*

*(b) Name of preferred funeral director, if any; and*

*(d) 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;*

**[**(10) A policy on the administration of medications by a spouse or domestic partner to their spouse or domestic partner, when both parties reside in the same assisted living program.**]**

*(10) Unless the 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(35), a statement indicating that if a resident's care needs, after admission, exceed what the licensee is permitted to provide as set forth in Regulation .19 of this chapter, and a waiver for the continued stay of the resident has not been granted, the program shall discharge the resident; and*

*(11) If the 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(35), a statement indicating that if the resident's care needs, after admission to assisted living, exceed what the licensee is permitted to provide as set forth in Regulation .19 of this chapter, and a waiver for the continued stay of the resident has not been granted:*

*(a) The licensee may not provide any services to the resident beyond that which it is licensed to provide;*

*(b) If the licensee 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 32.02.01.31.*

E. If the services provided in **[**an assisted living**]** *a* program that is part of a continuing care retirement community are covered under a continuing care agreement that complies with *Human Services* Article **[**70B, §13(d)**]***, Title 10, Subtitle 4*, and Health-General Article, §19-1806, Annotated Code of Maryland:

(1) (text unchanged)

(2) The requirements set forth in this regulation and Regulation **[**.25**]** *.21* of this chapter do not apply.

F. (text unchanged)

*10.07.14.25*

**[.25] *.21* Resident Agreement — Financial Content.**

*A. If a program requires payment of funds before admission, the funds shall be fully refundable unless the program discloses, in writing, what portion is not refundable.*

**[**A.**]** *B.* The resident agreement shall include financial provisions, which include at a minimum:

(1) Obligations of the licensee and the resident, or the resident's **[**agent**]** *representative*, as to:

(a)—(e) (text unchanged)

(2) Rate structure and payment provisions covering:

(a) (text unchanged)

(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, resident's agent, or the **[**assisted living**]** program;

(d)—(f) (text unchanged)

(g) The procedures the **[**assisted living**]** program will follow in the event the resident or **[**agent**]** *resident’s representative* can no longer pay for services provided for in the resident agreement or for services or care needed by the resident; *including at least 30 days notice prior to discharge to the Department of Aging and Adult Protective Services;* and

(h) (text unchanged)

*C. For all resident agreements, death of the resident shall constitute a cancellation of the resident agreement and all obligations there under, unless the resident agreement includes specific provisions to the contrary.*

**[**B.**]** (text unchanged)

*10.07.14.26*

**.26 Service Plan.**

A. 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. 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.

**[**B. Assessment of Condition.**]**

**[**(1)**]** *B.* The resident's service plan shall be based on *a full* **[**assessments**]** *assessment* of the resident's health, function, and psychosocial status using the Resident Assessment Tool*and 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. 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 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.**]**

*C. The service plan shall be completed utilizing a form approved by the Department or shall contain substantially equivalent content.*

*D. The manager, or designee, in collaboration with the delegating nurse/case manager, shall ensure that:*

*(1) A written service plan is developed by staff, which at a minimum addresses:*

*(a) The services to be provided to the resident, based on the resident’s nursing assessment and Resident Assessment Tool;*

*(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 14 days of admission to the program; and*

*(3) The service plan is reviewed by staff, and updated if needed, at least every 6 months, unless a resident's condition or preferences significantly change, in which case the manager, or designee, and delegating nurse/case manager shall review and update the service plan sooner.*

*10.07.14.27*

**[.27] *.23* Resident Record or Log.**

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

**[**(1) The documentation required by Regulations .21 and .26 of this chapter;

(2) Medical orders;

(3) Rehabilitation plans, if appropriate;

(4) The service plan;

(5) Care notes as indicated in §D of this regulation; and

(6) The emergency data sheet as described in Regulation .33D of this chapter.**]**

*(1) Resident Assessment Tools;*

*(2) Nursing assessments;*

*(3) Signed medical orders;*

*(4) Service plans;*

*(5) Care notes;*

*(6) Emergency data sheets;*

*(7) Medical Orders for Life-Sustaining Treatment forms;*

*(8) Pharmacy reviews, if appropriate; and*

*(9) Rehabilitation plans, if appropriate.*

**[**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 greater 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 of this chapter, is documented in the resident's record and communicated in a timely manner to:

(1) The resident;

(2) The resident's health care representative, if appropriate; and

(3) All appropriate health care professionals and staff who are involved in the development and implementation of the resident's service plan.

D. Resident Care Notes.

(1) Appropriate staff shall write care notes for each resident:

(a) On admission and at least weekly;

(b) With any significant changes in the resident's condition, including when incidents occur and any follow-up action is taken;

(c) When the resident is transferred from the facility to another skilled facility;

(d) On return from medical appointments and when seen in home by any health care provider;

(e) On return from nonroutine leaves of absence; and

(f) 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, chronological, and signed by the writer.**]**

*B. The manager shall develop written 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 of this chapter, is documented in the resident's record and communicated in a timely manner to:*

*(1) The resident;*

*(2) The resident's health care representative, if appropriate; and*

*(3) All appropriate health care professionals and staff who are involved in providing care to the resident.*

*C. Resident Care Notes.*

*(1) Appropriate staff shall write care notes for each resident on admission and at least weekly, or more frequently if any of the following occur:*

*(a) With any significant changes in the resident's condition, including when incidents occur and any follow-up action is taken;*

*(b) When the resident is transferred from the facility to another skilled facility;*

*(c) On return from medical appointments and when seen in home by any health care provider;*

*(d) On return from non-routine leaves of absence; and*

*(e) 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, timed and dated chronologically, and signed by the writer.*

*D. The licensee shall maintain a resident's record for 5 years after the resident is discharged.*

*E. If a program ceases operation, the licensee shall make arrangements to retain records as required by §D of this regulation.*

*F. A licensee shall:*

*(1) Maintain the privacy and confidentiality of a resident's medical records;*

*(2) Release medical records or medical information about a resident only with the consent of the resident or resident's 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 4, Annotated Code of Maryland.*

*10.07.14.28*

**[.28] *.24* Services.**

A. Meals.

(1) The **[**assisted living manager**]** shall ensure that:

(a)—(e) (text unchanged)

**[**(2) Menus.

(a) Menus shall be written at least 1 week in advance with portion sizes tailored to each resident.

(b) Menus shall be maintained on file, as served, for 2 months.

(c) As part of the licensure approval and renewal process, an applicant shall submit a 4-week menu cycle with documentation by a licensed dietician or nutritionist that the menus are nutritionally adequate.**]**

*(2) The program shall post a weekly menu in a conspicuous place that is visible to residents and other interested parties.*

*(3) Menus as served, including portion size, shall be maintained on file for 1 month.*

**[**(3)**]** *(4)* Special Diets.

(a) **[**The assisted living program**]** *Program* staff shall:

(i) Prepare or arrange for the provision of special diets as ordered by the resident's **[**personal physician**]** *health care practitioner* or as needed by the resident's condition; and

(ii) (text unchanged)

(b) If the diet is beyond the capability of the program, the resident or the resident's **[**physician**]** *health care practitioner* shall make other arrangements for the resident's care, or the 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:

(1)—(2) (text unchanged)

C. Nursing Services. The **[**assisted living**]** manager, in consultation with the delegating nurse *or case manager*, shall ensure that all nursing services are provided consistent with the Nurse Practice Act, Health Occupations Article, Title **[**10**]** *8*, Annotated Code of Maryland.

D. 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 following activities of daily living**[**:**]***, as defined in Regulation .02B of this chapter.*

**[**(1) Eating or being fed;

(2) Personal hygiene, grooming, bathing, and oral hygiene, including brushing teeth, shaving, and combing hair;

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

(4) Toileting and incontinence care; and

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

E. Housekeeping Services. The **[**assisted living**]** manager shall ensure that:

(1)—(2) (text unchanged)

F. (text unchanged)

G. Social and Spiritual Activities.

(1) The **[**assisted living**]** manager shall provide or arrange appropriate opportunities for socialization, social interaction, and leisure activities which promote the physical and mental well-being of each resident, including facilitating access to spiritual and religious activities consistent with the preferences and background of the resident.

(2) (text unchanged)

*H. Special Care Needs – Monitoring and Oversight*

*(1) Every resident shall receive appropriate care, services, and oversight in accordance with State and federal guidelines, and accepted standards of nursing and medical practice, and in compliance with the resident-specific waiver provisions of Regulation .19 of this chapter. Resident service plans shall reflect increased monitoring and oversight needed by residents with special care needs, which include at a minimum:*

*(a) Frequent falls;*

*(b) Decubitus ulcer care;*

*(c) Oxygen therapy;*

*(d) Enteral feedings;*

*(e) Foley care;*

*(f) Ostomy care;*

*(g) Therapeutic drug levels;*

*(h) Mental illness or psychiatric care; and*

*(i) Diabetic management.*

*(2) At a minimum, appropriate care includes:*

*(a) Using proper infection control techniques to prevent infection and cross contamination;*

*(b) Providing care and services to promote healing;*

*(c) Ensuring that staff have demonstrated competency to the delegating nurse/case manager in the provision of care that meets the special care needs of the resident; and*

*(d) Notifying when incidents occur and there is a need for medical or nursing evaluation and treatment, the:*

*(i) Resident, or if appropriate, the resident’s representative;*

*(ii) Program’s delegating nurse/case manager; and*

*(iii) Resident’s health care practitioner, if appropriate.*

*10.07.14.29*

**[.29] *.25* Medication Management and Administration.**

A. (text unchanged)

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. (text unchanged)

D. **[**An assisted living manager shall ensure that the resident's initial assessment process identifies whether a resident:**]** *Self-Administration.*

 *(1) A manager shall ensure that the resident’s initial assessment by the delegating nurse/case manager identifies whether a resident:*

**[**(1)**]** *(a)*—**[**(3)**]** *(c)* (text unchanged)

**[**E.**]** *(2)* For a resident who is capable of self-administration or, although capable, requires a reminder or physical assistance, as stated in §D**[**(2)**]** *(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.

**[**F.**]** *E. Spousal Administration.* While residing in the same assisted living facility 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)—(3) (text unchanged)

**[**G.**]** *F.* Medication Review Upon Admission.

(1) **[**The assisted living manager shall consult within 14 days of a resident’s admission with the individuals set forth in §G(2) of this regulation to review a new resident’s medication regime.**]** *The manager shall ensure that within 14 days of a new resident’s admission, a medication regimen review is conducted by a:*

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

(a)—(b) (text unchanged)

**[**(c) Certified registered nurse midwife;**]**

**[**(d)**]** *(c)* Registered nurse, who may be the delegating nurse *or case manager*; or

**[**(e)**]** *(d)* (text unchanged)

**[**H.**]** *(2)* The purpose of the *medication regimen* review **[**required by §G of this regulation**]** is to review with the **[**assisted living**]** manager or designee:

**[**(1)**]** *(a)*—**[**(4)**]** *(d)* (text unchanged)

**[**I.**]** *(3)* The **[**assisted living**]** manager, or designee, shall ensure that the *regimen* review **[**required by §G of this regulation is documented in the resident’s records**]**, including any recommendations given by the reviewer *is documented in the resident’s records.*.

**[**J.**]** *G.* Pharmacy Review.

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

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

(a)—(l) (text unchanged)

(m) **[**The resident records need to be reviewed to assure that periodic**]** *Periodic* diagnostic monitoring required by certain medications have been performed; and

(n) **[**The resident's medication regimens need to be reviewed to determine if more**]** *More* cost-effective medications are available to treat current medical conditions.

(3) (text unchanged)

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

**[**L. 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 days. The delegating nurse shall make appropriate recommendations to the appropriate authorized prescriber, and the assisted living manager or designee.**]**

**[**M.**]** *I.*  Safe Storage of Medication. The **[**assisted living**]** manager, or designee, shall ensure that:

(1)—(2) (text unchanged)

(3) **[**The following documentation is maintained for all residents:**]** *Medications are labeled with the following:*

(a)—(g) (text unchanged)

(h) Refill limits; **[**and**]**

(i) Directions for use**[**.**]** *;*

*(j) Frequency; and*

*(k) Route.*

*J. A program may not have interim medications.*

*K. Medical orders shall be updated at least annually with the Resident Assessment Tool, or sooner as needed*

**[**N.**]** *L.* Medications and treatments shall be administered consistent with current signed medical orders and using professional standards of practice.

*M. Staff shall chart on the medication administration record each time staff administer, or assist in the administration of, a medication.*

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

O. **[**Required Documentation.**]** *Controlled Dangerous Substances.*

(1) A staff member shall *count and* record the documentation required under §M 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) (text unchanged)

P. Accounting for Narcotic and Controlled Drugs.

(1) Staff shall count and record **[**controlled drugs, such as narcotics,**]** *Schedule II through V controlled substances*before the close of every shift.

(2)—(3) (text unchanged)

*(4) The manager shall obtain a Controlled Dangerous Substances registration certificate from the Maryland Division of Drug Control.*

*(5) The manager shall develop written policies and procedures to guard against theft and diversion of controlled substances, including:*

*(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 program and their destruction shall be:*

*(a) Conducted by two members of the staff, one of whom must be a licensed practitioner, pharmacist, or a nurse; 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 days of destruction.*

*10.07.14.30*

**[.30] *.26* Alzheimer's *and Dementia* Special Care Unit.**

*A. All Alzheimer’s/dementia special care units shall have a coordinator who is solely responsible for the coordination of the Alzheimer’s/dementia special care unit. The coordinator shall:*

*(1) Be a licensed or degreed health care professional, other than the delegating nurse; and*

*(2) Have completed a course, consisting of a minimum of 30 hours of training, by a nationally recognized Alzheimer’s/dementia care giving resource or association; or*

*(3) Have substantially equivalent training and experience.*

*B. The coordinator shall, in collaboration with the manager and delegating nurse/case manager, coordinate as needed outside psychiatric and psychosocial services to assist with behavior modification plans.*

*C. Other Staff.*

*(1) In addition to the trainings described in Regulation .14 of this chapter, staff shall:*

*(a) Complete a minimum of 20 hours of documented initial training on the care of residents with Alzheimer’s disease and related dementia prior to providing direct resident care; and*

*(b) Complete a minimum of 8 hours of documented annual training on Alzheimer’s disease and related dementia;*

*(2) Direct care staff shall not have housekeeping, laundry, food preparation, or maintenance duties as primary responsibilities; and*

*(3) Certified medication technicians shall not be responsible for any direct care activities while administering medications during the assigned times.*

**[**A.**]** *D.* Written Description. At the time of initial licensure, **[**an assisted living**]** *a* program with an Alzheimer's special care unit shall submit to the Department a written description of the special care unit using a disclosure form adopted by the Department. The description shall explain how:

(1)—(2) (text unchanged)

**[**B.**]** *E.* At the time of license renewal, **[**an assisted living**]** program with an Alzheimer's special care unit shall submit to the Department a written description of any changes that have been made to the special care unit and how those changes differ from the description of the unit that is on file with the Department.

**[**C.**]** *F.* **[**An assisted living**]** *A* program with an Alzheimer's special care unit shall disclose the written description of the special care unit to:

(1)—(2) (text unchanged)

**[**D.**]** *G.* (text unchanged)

**[**E.**]** *H.*  The Department shall restrict admission or close the operation of a special care unit if the Department determines that the facility has not demonstrated compliance with this regulation or the health or safety of residents is at risk.

***.27 Alzheimer’s/Dementia Special Care***

*A. The manager of a facility which provides care to one or more individuals with dementia, including a probable or confirmed diagnosis of Alzheimer’s disease or a related disorder, shall ensure the requirements of this regulation are met.*

*B. An orientation manual with policies and procedures specific to Alzheimer’s/dementia special care shall be maintained on-site and accessible to all staff.*

*C. The manager, or designee, shall ensure that an enhanced service plan is developed for all residents with Alzheimer’s/dementia. The service plan shall, at a minimum, include specific interventions that address:*

*(1) Persistent or repetitive behaviors that affect the health and well-being of the resident or present a danger to the resident or other individuals;*

*(2) Environment, safety, and security;*

*(3) Behavior management;*

*(4) Staffing; and*

*(5) Life enrichment activities.*

*D. Delegating nurse/case manager.*

*(1) For residents receiving psychotropic or behavior-modifying medications, the delegating nurse/case manager during nursing assessments shall:*

*(a) Assess the resident’s functional level;*

*(b) Identify any potential adverse effects of the medication or medications; and*

*(c) Consult with the authorized prescriber or pharmacist, as necessary, to determine if medication dosages should be modified or discontinued.*

*(2) During nursing assessments the delegating nurse/case manager shall evaluate residents with persistent or repetitive behaviors that affect the health and well-being of the resident or present a danger to the resident or other individuals to determine:*

*(a) A baseline of the intensity, duration, and frequency of the behavior;*

*(b) Antecedent behaviors and activities;*

*(c) Recent changes or risk factors in the resident’s life;*

*(d) Environmental factors such as time of day, staff involved, and noise levels;*

*(e) The resident’s medical status;*

*(f) Alternative, structured activities or behaviors that have been successful or unsuccessful in the past; and*

*(g) The effectiveness of behavioral management approaches.*

*(3) The results of the enhanced assessments described in §D(1) and (2) of this regulation shall be reflected in the resident’s service plan.*

*E. The manager and delegating nurse/case manager shall coordinate outside psychiatric and psychosocial services, if appropriate, to assist with behavior modification plans.*

*F. When the resident census includes eight or more residents with Alzheimer’s/dementia, there shall be a minimum of one direct care staff on each shift for every eight residents.*

*10.07.14.31*

**[.31] *.28* Incident Reports.**

A. *Program* 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(35) of this chapter, occurred.

B. The **[**assisted living program**]** *licensee* 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)—(3) (text unchanged)

(4) Notification**[**, including notification**]** to the:

(a) (text unchanged)

(b) Resident's **[**physician**]** *health care practitioner*, if appropriate;

(c) Program's delegating nurse *or case manager*;

(d) (text unchanged)

**[**(e)**]** *(5)* Follow-up activities, including investigation of the occurrence and steps to prevent its reoccurrence.

*D. The licensee shall notify the Department within 24 hours of a resident death resulting from:*

*(1) Abuse;*

*(2) Wandering;*

*(3) A medication error;*

*(4) Burns; or*

*(5) Any injury incurred at the program.*

*10.07.14.32*

**[.32 Records.**

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

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

C. An assisted living program shall:

(1) Maintain the privacy and confidentiality of a resident's medical records;

(2) Release medical records or medical information about a resident only with the consent of the resident or resident's 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.**]**

*10.07.14.33*

**[.33] *.29* Relocation and Discharge.**

A. Relocation within the Facility.

(1) The **[**assisted living program**]** *licensee* 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**]** *A licensee* shall notify a resident and the resident's representative at least 5 days before a nonemergency relocation within the facility and obtain the consent of the resident or resident's representative.

(3) (text unchanged)

B. (text unchanged)

C. 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) Current **[**physician's orders**]** *medication and treatment orders*;

(2) (text unchanged)

(3) Most current **[**resident assessment**]** *Resident Assessment Tool*.

D. 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 include at least:

(1)—(2) (text unchanged)

*(3) The name and telephone number of the resident’s health care practitioner;*

**[**(3)**]** *(4)* The resident's current documented diagnoses;

**[**(4)**]** *(5)* Current medications taken by the resident;

**[**(5)**]** *(6)* The resident's known allergies, if any;

**[**(6) The name and telephone number of the resident's physician;**]**

*(7) The resident’s dietary restrictions, if any;*

**[**(7)**]** *(8)* Any relevant information concerning the event that precipitated the emergency; and

**[**(8)**]** *(9)* Appended copies of:

(a) Advance directives;

*(b) Medical Orders for Life-Sustaining Treatment (MOLST) form*

**[**(b)**]** *(c)* Emergency Medical Services (EMS/DNR) Form; and

**[**(c)**]** *(d)* Guardianship orders or powers of attorney, if any.

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

(1) Give each resident or resident's **[**agent**]** *representative*:

(a)—(b) (text unchanged)

(2) (text unchanged)

F. (text unchanged)

*10.07.14.34*

**[.34] *.30* Resident's Representative.**

A. **[**An assisted living program**]** *A licensee* shall recognize the authority of:

(1)—(7) (text unchanged)

B.—C. (text unchanged)

**[**D. A licensee who commits financial exploitation of a resident shall be in violation of this chapter as well as applicable civil and criminal laws.**]**

*10.07.14.35*

**[.35] *.31* Resident's Rights.**

A. A resident of an **[**assisted living**]** program has the right to:

(1)—(23) (text unchanged)

(24) 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**[**.**]** *; and*

*(25) Return to the program from a hospitalization or a 15 day or greater stay in any skilled facility, unless the manager has documented that the resident’s care needs exceed what the program can provide.*

B. Confidential Information.

(1) (text unchanged)

(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's 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. (text unchanged)

D. Adult Medical Day Care.

**[**(1) Adult day care attendance may be encouraged.**]**

**[**(2)**]** *(1)*—**[**(3)**]** *(2)* (text unchanged)

**[**E. Notice of Resident's Rights. An assisted living program shall place a copy of the resident's rights, as set forth in this regulation, in a conspicuous location, plainly visible and easily read by residents, staff, and visitors, and provide a copy to each resident and resident's representative on admission.**]**

*10.07.14.36*

**[.36]** ***.32* Abuse, Neglect, and Financial Exploitation.**

A. **[**An assisted living**]** *A* 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 criminal background check.**]**

*B. A licensee who commits financial exploitation of a resident shall be in violation of this chapter as well as applicable civil and criminal laws.*

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

(1) A licensee 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 exploitation within 24 hours to:

**[**(a) The appropriate local department of social services, Adult Protective Services Program; and**]**

*(a) The Office of Health Care Quality of the Department; and*

(b) One or more of the following:

(i) (text unchanged)

**[**(ii) The Office of Health Care Quality of the Department;**]**

*(ii) The Adult Protective Services Program;*

(iii) (text unchanged)

**[**(2) If one of the agencies listed in §C(1)(b) of this regulation receives a report, that recipient shall notify:

(a) The other parties referred to in §C(1)(b) of this regulation; and

(b) The assisted living manager unless the assisted living manager is believed to be involved with the abuse, neglect, or exploitation.**]**

**[**(3)**]** *(2)*—**[**(4)**]** *(3)* (text unchanged)

D. Investigations. An **[**assisted living**]** program shall:

(1)—(2) (text unchanged)

E.—F. (text unchanged)

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

*10.07.14.37*

**[.37] *.33* Restraints.**

A.—D. (text unchanged)

E. Restraint Orders.

(1)—(5) (text unchanged)

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

F.—G. (text unchanged)

*10.07.14.38*

**[.38] *.34* Protection of a Resident's Personal Funds.**

A. (text unchanged)

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

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

(1) (text unchanged)

(2) Resident's **[**agent**]** *representative*.

D.(text unchanged)

E. Safeguards Required.

(1) Each **[**assisted living program**]** *licensee* 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**]** *A licensee* 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**]** *A licensee* that manages residents' personal funds, regardless of the amount managed, shall maintain on behalf of the residents:

(a)—(c) (text unchanged)

(4) (text unchanged)

F. Establishment of Resident Accounts.

(1) When **[**an assisted living program**]** *a licensee* manages a resident's financial affairs, the **[**assisted living program**]** *licensee* 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**]** *licensee*; and

(b) (text unchanged)

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

(3)—(4) (text unchanged)

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

(1)—(3) (text unchanged)

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

I. Availability of Personal Funds.

(1) (text unchanged)

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

(a) (text unchanged)

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

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

J. Ownership Change.

(1) If the ownership of **[**an assisted living**]** *a* 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**]** *licensee*.

(2)—(4) (text unchanged)

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

*10.07.14.39*

**[.39] *.35*** (text unchanged)

*10.07.14.40*

**[.40 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 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.**]**

*10.07.14.41*

**[.41] *.36* General Physical Plant Requirements.**

A.—B. (text unchanged)

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)—(2) (text unchanged)

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.

*10.07.14.42*

**[.42] *.37*** (text unchanged)

*10.07.14.43*

**[.43] *.38*** (text unchanged)

*10.07.14.44*

**[.44] *.39*** (text unchanged)

*10.07.14.45*

**[.45] *.40*** (text unchanged)

*10.07.14.46*

**[.46] *.41* Emergency Preparedness.**

A. (text unchanged)

B. Fire Extinguishers. **[**An assisted living**]** *A* program shall:

(1) Ensure that fire extinguishers are:

(a)—(c) (text unchanged)

*(d) Serviced annually, as evidenced by documentation maintained on-site, by an individual or company licensed by the Maryland State Fire Marshall; and*

(2) (text unchanged)

C. Emergency and Disaster Plan.

*(1) Compliance with the requirements of §C(2)-(10) may be evidenced by the completion, in its entirety, of the Assisted Living Emergency Preparedness Packet.*

**[**(1)**]** *(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)—(d) (text unchanged)

**[**(2)**]** *(3)* The licensee 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)—(c) (text unchanged)

**[**(3)**]** *(4)* When the **[**assisted living**]** program relocates residents, the program shall send **[**a brief medical fact sheet**]** with each resident **[**that includes at a minimum the resident's:**]** *an emergency data sheet, as in Regulation .29 of this chapter.*

**[**(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.

(4) The brief medical fact sheet for each resident described in §C(3) 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.**]**

(5)—(7) (text unchanged)

(8) Upon request, a licensee 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 licensee shall provide the emergency and disaster plan in a format*, such as the Assisted Living Emergency Preparedness Packet,* that is mutually agreeable to the local emergency management organization.

(9) (text unchanged)

D. (text unchanged)

E. Orientation and Drills.

(1) (text unchanged)

(2) Fire Drills.

(a) The **[**assisted living**]** program shall conduct fire drills at least quarterly on all shifts.

(b) Documentation. The **[**assisted living**]** program shall:

(i) (text unchanged)

(ii) Have all staff who participated in the drill sign the document; **[**and**]**

*(iii) Document the fire scenario used in the drill;*

*(iv) Document the steps taken by staff during the drill;*

*(v) Document the reaction of staff during the drill;*

*(vi) Document any opportunities for improvement identified as a result of the drill; and*

**[**(iii)**]** (text unchanged)

(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) (text unchanged)

(c) Documentation. The **[**assisted living**]** program shall:

(i)—(ii) (text unchanged)

*(iii) Document the type of disaster utilized for the drill or training;*

*(iv) Document the steps taken by staff during the drill or discussed during the training;*

*(v) Document the reaction of staff during the drill or training;*

**[**(iii)**]** *(vi)*—**[**(iv)**]** *(vii)* (text unchanged)

(4) (text unchanged)

F. Emergency Electrical Power Generator. *A program with 50 or more residents shall have on the premises an emergency electrical power generator which meets the requirements of Health-General Article, §19-1812, Annotated Code of Maryland.*

**[**(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 licensee 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) Drug 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) Within 36 months of the effective date of this chapter, existing programs with 50 or more beds shall complete the installation and acceptance of a working system as required in this regulation.

(b) An assisted living program shall be exempt from the requirements of §F of this regulation 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.

(c) An assisted living program may request a waiver from the requirements of §F of the regulation in accordance with the procedures outlined in COMAR 10.07.14.08 on a year-to-year basis. The program shall demonstrate in the waiver request financial hardship that would adversely affect the program's viability.

(d) When the Department grants a waiver to an assisted living program for the requirements of §F of this regulation, 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.**]**

*10.07.14.47*

**[.47] *.42* Smoking.** *Indoor areas shall be smoke-free in compliance with the Clean Indoor Air Act of 2007.*

**[**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; and

(3) Provide smoking areas that comply with COMAR 09.12.23, if the facility is considered an "enclosed work place" as defined in COMAR 09.12.23, including the ventilation requirements set forth in that regulation.**]**

*10.07.14.48*

**[.48] *.43* Common Use Areas.**

A. Multipurpose Space.

(1) The **[**assisted living program**]** *licensee* shall provide at least 35 square feet of usable multipurpose floor space per licensed bed. Multipurpose space includes:

(a)—(c) (text unchanged)

(2) (text unchanged)

(3) The **[**assisted living program**]** *licensee* 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**]** *licensee* shall make at least one living room available for resident use.

(2) The **[**assisted living program**]** *licensee* shall ensure that the living rooms are:

(a)—(c) (text unchanged)

C. (text unchanged)

D. Public Toilets.

(1) (text unchanged)

(2) The public toilet is not calculated in the ratio required by **[**Regulation .50A**]** *.45A* of this chapter.

E. (text unchanged)

F. Kitchen.

(1) **[**An assisted living program**]** *A program* shall have a kitchen that has adequate:

(a)—(h) (text unchanged)

(2) **[**An assisted living**]** *A* 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**]** *A* 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) (text unchanged)

*10.07.14.49*

**[.49] *.44* Resident's Room and Furnishings.**

A. Resident Room.

(1) (text unchanged)

(2) **[**An assisted living program**]** *A licensee* 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)—(9) (text unchanged)

(10) The **[**assisted living program**]** *licensee* shall provide adequate closet or wardrobe space, conveniently located to allow each resident to keep personal clothing.

B.—C. (text unchanged)

D. The **[**assisted living program**]** *licensee* shall inform a resident of all of the furnishings that the program provides. The resident may choose to provide a personal bed or other furnishings if they are not hazardous.

*10.07.14.50*

**[.50] *.45* Bathrooms for Residents.**

A. Toilets.

(1) **[**An assisted living program**]** *A licensee* shall provide toilets in a separate room or compartment with latching hardware for privacy.

(2) (text unchanged)

B.—C. (text unchanged)

*10.07.14.51*

**[.51] *.46* Illumination.**

A. Resident's Room.

(1) **[**An assisted living program**]** *A licensee* shall ensure that a resident's room:

(a)—(c) (text unchanged)

(2) **[**An assisted living program**]** *A licensee* shall provide additional lighting or wattage upon reasonable request by the resident or the resident's legal representative.

B. Common Use Areas. **[**An assisted living program**]** *A licensee* 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**]** *licensee* shall provide sufficient light to meet the resident's needs.

*10.07.14.52*

**[.52] *.47* Heating, Ventilation, and Air Conditioning.**

A. **[**An assisted living**]** *A* program may not use space heaters unless approved by the State or local fire authorities.

B.—C. (text unchanged)

(1) **[**An assisted living**]** *A* program with a licensed capacity of one to eight beds shall provide at least one thermostat per building.

(2) **[**An assisted living**]** *A* program with a licensed capacity of nine or more beds shall provide for each resident's room:

(a)—(b) (text unchanged)

D. **[**An assisted living program**]** *A licensee* shall:

(1) (text unchanged)

(2) Provide forced mechanical exhaust ventilation or an approved equivalent for:

(a)—(e) (text unchanged)

(f) Other rooms, as determined by **[**the Department**]** *OHCQ*.

*10.07.14.53*

**[.53] *.48* Radiators.**

A. (text unchanged)

B. The **[**assisted living**]** program shall ensure that the radiator shielding device:

(1)—(4) (text unchanged)

*10.07.14.54*

**[.54] *.49* Laundry.**

A. **[**An assisted living program**]** *A licensee* shall furnish laundry service, either on-site or off-site.

B. **[**An assisted living program**]** *A licensee* shall ensure that the laundry is:

(1)—(3) (text unchanged)

C. Unless otherwise agreed by the **[**program**]** *licensee* and the resident, dry cleaning services are not considered part of required laundry services in this chapter.

*10.07.14.55*

**[.55] *.50* Telephones.**

A. **[**An assisted living**]** *A* program with a licensed capacity of one to eight beds shall provide:

(1)—(2) (text unchanged)

B. **[**An assisted living**]** *A* 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**]** *A* program with a licensed capacity of 17 or more beds shall provide:

(1)—(2) (text unchanged)

*10.07.14.56*

**[.56] *.51* Sanctions.**

A. If the Secretary determines that **[**an assisted living program**]** *licensee* has violated this chapter, the Secretary, in addition to the sanctions set forth in this chapter may:

(1) Restrict the number of residents the **[**assisted living program**]** *licensee* may admit in accordance with Health-General Article, §19-328, Annotated Code of Maryland;

(2) Require the **[**assisted living program**]** *licensee* to reduce the number of residents in care;

**[**(3) Restrict the levels of care for which the assisted living program may provide services;**]**

**[**(4)**]** *(5)* Require the licensee, and any of its staff, to receive remedial instruction in a specific area;

**[**(5)**]***(6)* Require the assisted living program to use the services of a management firm approved by the Department;

**[**(6)**]** *(7)* Mandate staffing patterns which specify number of personnel, personnel qualifications, or both;

**[**(7)**]** *(8)* Require the establishment of an escrow account in accordance with Health-General Article, §19-362, Annotated Code of Maryland;

**[**(8)**]** *(9)* Direct the licensee to correct the violations in a specific manner or within a specified time frame, or both;

**[**(9)**]** *(10)* Notify, or require the assisted living program to notify, the representative or family of any resident who is affected by the noncompliance;

**[**(10)**]** *(11)* Increase the frequency of monitoring visits during a specified period of time; or

**[**(11)**]** *(12)* Enter into an agreement with the licensee establishing certain conditions for continued operation, including time limits for compliance.

B. (text unchanged)

C. Appeals.

(1) A licensee 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 **[**.64**]** *.59* of this chapter.

(2)—(3) (text unchanged)

*10.07.14.57*

**.57 Civil Money Penalties.**

A. The Secretary may impose a civil money penalty on a person if:

(1)—(2) (text unchanged)

(3) The person falsely advertises a program in violation of Regulation **[**.06B(2)**]** *.05B(2)* of this chapter.

B.—E. (text unchanged)

**[**F. An order issued pursuant to this regulation shall be void unless issued within 60 days of the inspection or reinspection at which the deficiency is identified.**]**

*F. If the licensee fails to pay an imposed civil money penalty by the specified due date, the Department may deny the licensee’s application for renewal of the program’s license.*

*G. 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 .59 of this chapter.*

*10.07.14.58*

**[.58] *.53* Amount of Civil Money Penalties.**

A. A civil money penalty imposed on a person under this chapter may not exceed **[**$10,000 for each offense.**]** *;*

*(1) $20,000 for the first offense; and*

*(2) $30,000 for each subsequent offense.*

B. (text unchanged)

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 **[**.64**]** *.59* of this chapter.

*10.07.14.59*

**[.59] *.54*** (text unchanged)

*10.07.14.60*

**[.60] *.55* Criminal Penalties.**

**[**A. Operating Without a License.**]**

**[**(1)**]** *A.* (text unchanged)

**[**(2)**]** *B.* A person who violates §A**[**(1)**]** of this regulation is guilty of a felony and on conviction is subject to:

**[**(a)**]** *(1)*— **[**(b)**]** *(2)* (text unchanged)

**[**(3)**]** *C.* When the Department finds an assisted living program to be in violation of §A**[**(1)**]** of this regulation, the Department shall send written notice to the program 30 days before the State files charges under §A**[**(1)**]** of this regulation in order to give the program an opportunity to come into compliance with the licensure requirements.

**[**(4)**]** *D.* A person may not be subject to §**[**A(2)**]** *B* of this regulation if the person has:

**[**(a)**]** *(1)*—**[**(c)**]** *(3)* (text unchanged)

**[**(5)**]** *E.* In recommending the amount of civil money penalty under §**[**A(2)**]** *B* of this regulation, the State shall consider factors including the:

(a)—(b) (text unchanged)

**[**B. A person maintaining and operating an assisted living program which is in violation of this chapter is guilty of a felony, and, on conviction, shall be fined not more than $1,000. Each day that the assisted living program operates after the first conviction, without correction of the cited violation, is considered a subsequent offense and may subject the operator to further

prosecution.**]**

*10.07.14.61*

**[.61]** (text unchanged)

*10.07.14.62*

**[.62] Emergency Suspension.**

A.—C. (text unchanged)

D. When a license is suspended by emergency action:

(1) (text unchanged)

(3) The **[**assisted living**]** manager or alternate manager shall notify the residents or representatives of the residents, or if applicable, the representative of the residents of the suspension and make every reasonable effort to assist them in making other assisted living arrangements; and

(4) The **[**assisted living manager**]** or alternate manager shall immediately notify the local department of social services Adult Protective Services Program of the emergency action.

E. (text unchanged)

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 **[**.64**]** *.59* of this chapter.

G. Show Cause Hearing.

(1) In addition to the right to request a hearing consistent with Regulation **[**.64**]** *.59* 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)—(5) (text unchanged)

(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 *within 30 days after the decision of the Secretary or Secretary’s designee is issue,* consistent with Regulation **[**.64**]** *.59* of this chapter.

H. Hearing.

(1) The Office of Administrative Hearings shall conduct a hearing as provided in Regulation **[**.64**]** *.59* of this chapter and issue a proposed decision within the time frames set forth in COMAR 28.02.01.

(2)—(4) A(text unchanged)

*10.07.14.63*

**[.63] *.58*** (text unchanged)

*10.07.14.64*

**[.64] *.59*** (text unchanged)