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Final Regulation Agency Background Document

Agency name	State Board of Social Services
Virginia Administrative Code (VAC) citation	22 VAC 40-72
Regulation title	Standards for Licensed Assisted Living Facilities
Action title	ALF Regulation Comprehensive Revision
Date this document prepared	November 1, 2006

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 21 (2002) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation. Also, please include a brief description of changes to the regulation from publication of the proposed regulation to the final regulation.

The proposed regulatory action is a joint action to repeal the existing regulation, 22 VAC 40-71, and establish a new regulation, 22 VAC 40-72. The new regulation includes additional requirements for assisted living facilities in the following areas: care and services to residents; staff qualifications, training, and responsibilities; management of the facility; physical plant features; coordination with mental health systems; disclosure of information; and emergency preparedness. The proposed standards emphasize resident-centered care and services. The standards include requirements that strive for a more homelike environment for residents. Additionally, the new regulation replaces an emergency regulation for 22 VAC 40-71.

The changes in the regulation from publication of the proposed include the deletion of standards on risk management, quality improvement, and high risk behavior. Additionally, details were omitted from several standards so that the requirements would be broader and less prescriptive, including standards related to incident reports, staffing, and mental health evaluation. Revisions were made to assure compliance with regulations of other state agencies, in particular the Department of Health Professions, the Department of Health, and the Department of Housing and Community Development. Other changes were made to improve the care and services provided to residents and for clarification purposes.

Statement of final agency action

Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.

The State Board of Social Services approved the final regulation, 22 VAC 40-72, entitled Standards for Licensed Assisted Living Facilities, and the final repeal of 22 VAC 40-71, entitled Standards and Regulations for Licensed Assisted Living Facilities, on November 1, 2006.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter numbers, if applicable, and (2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

The following sections of the Code of Virginia are the sources of legal authority to promulgate the regulation: § 63.2-217 (mandatory) says that State Board shall adopt regulations as may be necessary or desirable to carry out the purpose of Title 63.2; § 63.2-1721 (mandatory) requires applicants for assisted living facility licensure to undergo a background check; § 63.2-1732 (mandatory and discretionary) addresses the State Board’s overall authority to promulgate regulations for assisted living facilities and specifies content areas to be included in the standards; § 63.2-1802 (mandatory and discretionary) authorizes assisted living facilities to provide safe, secure environments for residents with serious cognitive impairments due to dementia if they comply with the Board’s regulations; § 63.2-1803 (mandatory and discretionary) addresses staffing of assisted living facilities; § 63.2-1805 (mandatory) relates to admission, retention, and discharge of residents; and § 63.2-1808 (mandatory and discretionary) relates to resident rights.

The promulgating entity is the State Board of Social Services.

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons it is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.

This new regulation is needed in order to replace the emergency regulation, which was the result of legislation passed by the 2005 General Assembly. The new regulation is also a comprehensive revision to the regulation in effect prior to the emergency regulation. As such, the new regulation incorporates requirements included in the emergency regulation, as well as requirements in other areas critical to the protection and well-being of residents of assisted living facilities (ALFs).

The resident population of ALFs has become increasingly vulnerable in recent years. Elderly residents have become frailer, many residents have more severe health problems, and there are residents with

greater mental health needs. The regulatory action strengthens the standards to provide much needed improvements in the requirements in order to protect the health, safety and welfare of ALF residents.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. A more detailed discussion is required under the "All changes made in this regulatory action" section.

22 VAC 40-72-10. Definitions.

Adds and modifies definitions to certain words used in the regulation.

22 VAC 40-72-30. Dedicated hospice facilities.

Adds requirements related to the operation of dedicated hospice facilities.

22 VAC 40-72-50. Licensee.

Adds new requirements for licensees.

22 VAC 40-72-60. Disclosure.

Adds a provision for consistent public disclosure of information related to services, fees, and operations of the facility.

22 VAC 40-72-90. Infection control plan.

Adds requirement for establishing and maintaining an infection control plan.

22 VAC 40-72-100. Incident reports.

Adds instructions regarding documentation and reporting of incidents.

22 VAC 40-72-140. Resident accounts.

Adds that monthly statement may be provided to a conservator or guardian, if one has been appointed and that the monthly statement and/or itemized receipts can be kept electronically for two years. Also, electronic retention of such must be protected by a back up and security system.

22 VAC 40-72-190. Administrator provisions and responsibilities.

Adds requirements related to administrators and assistant administrators.

22 VAC 40-72-200. Administrator qualifications.

Increases educational requirements for administrators and addresses licensure of administrators.

22 VAC 40-72-210. Administrator training.

Adds that administrators shall complete training on standards when they are revised. Adds a six month period for administrators to complete the medication training from the effective date of these standards.

22 VAC 40-72-220. Shared administrator for smaller facilities.

Adds a provision for a shared administrator for smaller facilities under certain circumstances.

22 VAC 40-72-230. Administrator of both assisted living facility and nursing home.

Increases educational and training requirements for the manager position in facilities involving shared administrators.

22 VAC 40-72-240. Designated staff person in charge.

Provides for a designated direct care staff person to be in charge when other administrative staff are not at the facility.

22 VAC 40-72-250. Direct care staff qualifications.
Adds new training provisions for direct care staff.

22 VAC 40-72-260. Direct care staff training.
Adds that training shall be provided "by a qualified individual".

22 VAC 40-72-280. Volunteers.
Adds requirements for supervision, orientation and records of volunteers.

22 VAC 40-72-290. Staff records and health requirements.
Provides for risk assessments for tuberculosis screening for employees and updates criminal background check requirements.

22 VAC 40-72-300. First aid and CPR certification.
Adds new requirements related to first aid and CPR certification for direct care staff.

22 VAC 40-72-310. Direct care staff training when aggressive or restrained residents in care.
Adds a training requirement regarding awareness of possible risks associated with restraint use and methods of reducing or eliminating such risk.

22 VAC 40-72-320. Staffing.
Adds requirement for needs-based direct care staffing plan.

22 VAC 40-72-340. Admission and retention of residents.
Adds a requirement for a mental health screening, if needed.

22 VAC 40-72-350. Physical examination and report.
Modifies for consistency with the Department of Health requirements for tuberculosis screening in moderate to high risk settings.

22 VAC 40-72-360. Mental health screening.
The standard replaces 22 VAC 40-71-660. The standard establishes a timeframe within which to establish whether a prospective resident has shown a degree of mental health problems that warrants a mental health screening to ensure the safety of the resident and others. The standard also requires notification of recommended mental health services to the person, if admitted, the authorized representative, and the primary mental health provider.

22 VAC 40-72-365. Psychosocial and Behavioral History.
In the process of revising the requirements of Standard 22 VAC 40-72-360 Mental health screening, the State Board of Social Services decided to establish the requirement for a psychosocial and behavioral history as a standard independent of the mental health screening, i.e., 22 VAC 40-72-360.E. This requirement holds the facility responsible for ensuring that information regarding a prospective resident's functioning will be used to help to make an appropriate decision about whether to admit.

22 VAC 40-72-380. Resident personal and social information.
Adds information on lifetime vocation or career, and deletes information on family relationships from information maintained on a resident.

22 VAC 40-72-390. Resident agreement with facility.
Adds items to be included in the agreement between the resident and the facility.

22 VAC 40-72-400. Orientation and related information for residents.
Adds a requirement for orientation for new residents.

22 VAC 40-72-420. Discharge of residents.

Amends provisions regarding discharge of residents from the facility and notice to be given when a resident plans to leave.

22 VAC 40-72-430. Uniform assessment instrument.

Adds requirements regarding completion of the uniform assessment instrument.

22 VAC 40-72-440. Individualized service plans.

Adds provisions regarding completion of the individualized service plan.

22 VAC 40-72-450. Personal care services and general supervision and care.

Adds requirements for increased resident-centered care.

22 VAC 40-72-460. Health care services.

Adds instructions for clarity regarding the direct and indirect provision of health care services for prevention and treatment of physical and mental health conditions.

22 VAC 40-72-480. Health care oversight.

Adds requirements for the qualifications of the health care professionals responsible for oversight and increases frequency of onsite oversight.

22 VAC 40-72-500. Mental health services coordination, support and agreement.

The new standard combines 22 VAC 40-71-670, 680, and 690 into one standard, and contains a requirement for the assisting living facility to document information if the facility is unsuccessful in securing recommended mental health services for a resident(s) and whether the facility can continue to meet the needs of the resident, including safety, if the mental health services are not immediately available.

22 VAC 40-72-540. Visiting the facility.

Adds a requirement for facilities to encourage family involvement with residents.

22 VAC 40-72-550. Resident rights.

Adds provisions regarding resident rights.

22 VAC 40-72-560. Resident records.

Adds requirements regarding location of resident records and provisions regarding electronic material.

22 VAC 40-72-580. Food service and nutrition.

Allows residents the option of receiving meals in their rooms if the facility offers routine or regular room service. Adds a requirement that residents are allowed a minimum of 30 minutes to eat their meals. Adds requirement for monitoring food consumption and for intervention when nutritional problems are suspected or identified.

22 VAC 40-72-610. Number of meals.

Adds availability of between meal snacks.

22 VAC 40-72-620. Menus for meals and snacks.

Adds requirements for dietary manual, quarterly oversight of special diets by a dietician or nutritionist and availability of drinking water for hydration purposes.

22 VAC 40-72-630. Medication management plan and reference materials.

Adds requirements for the development of a facility-specific medication management plan.

22 VAC 40-72-640. Physician's or other prescriber's order.

Adds requirements for obtaining new orders for administering medications and treatments when a resident returns from a hospital admission.

22 VAC 40-72-650. Storage of medications.

Adds requirements for storage of controlled substances.

22 VAC 40-72-660. Qualifications, training, and supervision of staff administering medications.

Adds requirements for medication aide training, refresher training and supervision of medication aides.

22 VAC 40-72-670. Administration of medications and related provisions.

Adds specificity to the requirements related to the administration of medications including preparation, use of stat-drug boxes and following Board of Nursing approved curriculum guidelines.

22 VAC 40-72-700. Restraints.

Removes the requirement for a written plan of restraint reduction and adds notification requirements.

22 VAC 40-72-720. Personal possessions.

Adds a requirement for a facility to have a policy regarding residents' missing personal possessions.

22 VAC 40-72-730. Resident rooms.

Adds a requirement for new construction and change in use and occupancy classification that a closet or wardrobe be in a resident's room.

22 VAC 40-72-810. Resident councils.

Adds requirements for facilities to support a resident council and addresses the purposes of the council.

22 VAC 40-72-820. Pets living the assisted living facility.

Adds a requirement for maintaining documentation of pet immunization and examination at the facility.

22 VAC 40-72-830. Pets visiting the assisted living facility.

Removes the requirement to "ensure" and replaces it with the wording that pets "shall be" in good health.

22 VAC 40-72-840. General requirements.

Adds a requirement regarding firearms on the premises.

22 VAC 40-72-850. Maintenance of buildings and grounds.

Adds a requirement that elevators be inspected in accordance with the building code.

22 VAC 40-72-860. Heating, ventilation, and cooling.

Adds requirements regarding the cooling of facilities in warm weather.

22 VAC 40-72-880. Sleeping areas.

Amends the requirement to permit fewer residents in bedrooms in new construction or when there is a change in use and occupancy classification.

22 VAC 40-72-890. Toilet, face/hand washing, and bathing facilities.

Amends requirements regarding the number of sinks, toilets and bathing facilities for new construction or change in use and occupancy classification and specifies that certain handrails and grab bars be installed in compliance with the building code.

22 VAC 40-72-910. Provision for signaling/call systems

Modifies the retention period for written logs of rounds.

22 VAC 40-72-930. Emergency preparedness and response plan.

Deletes the requirement to develop the facility Emergency Preparedness and Response Plan in accordance with a department approved manual. Also deleted are the requirements for written procedures for quarterly testing of the implementation of the emergency preparedness and response plan and written procedures for an evaluation immediately following the quarterly test of the plan.

22 VAC 40-72-950. Fire and emergency evacuation drills.

Fire and emergency evacuation drill frequency and participation shall be in accordance with the current edition of the Virginia Statewide Fire Prevention Code. The drills required for each shift in a quarter shall not be conducted in the same month. Deleted the requirement to maintain the names of residents who did not participate in the fire and emergency evacuation drill and the reason.

22 VAC 40-72-960. Emergency equipment and supplies.

Amends requirements regarding content and availability of the first aid kit; adds requirement for certain facilities to be able to connect to a temporary electrical power source; adds other requirements related to emergency preparedness.

Issues

Please identify the issues associated with the proposed regulatory action, including:

- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
 - 2) the primary advantages and disadvantages to the agency or the Commonwealth; and*
 - 3) other pertinent matters of interest to the regulated community, government officials, and the public.*
- If there are no disadvantages to the public or the Commonwealth, please indicate.*

The following issues were identified:

22 VAC 40-72-60. The concern was that the disclosure statement needed to be more consumer friendly for prospective residents and their families. Specifically, certain provisions were recommended for deletion as they were seen to be unnecessary and to go beyond that which was required by law. Reorganization of the form was also suggested. The State Board of Social Services (Board) made the recommended changes to the standards and will consider other suggestions outside the scope of the standards when the form is revised.

22 VAC 40-72-70 and 22 VAC 40-72-80 The proposals to have facilities develop and implement a risk management and quality improvement plan were eliminated. The Board acknowledged concerns expressed by providers that education and training of facility staff on how to develop the plans would need to be done before mandating these requirements. The Board also acknowledged concerns that maintaining detailed data could increase the facility's exposure to litigation and liability. Rather than impose a requirement for a risk management and quality improvement plan on all facilities, the department decided to only require the plans, as adverse enforcement options, when a facility is found to have systemic problems in complying with the regulations. The Board believes that requiring facilities to develop and implement the plans when they are found to be experiencing compliance problems will prevent or reduce risk of harm to residents and staff.

22 VAC 40-72-100. The concern was that much of the requirement for incident and occurrence reports was overreaching and overly burdensome, with minimal to no improvements in quality of services to residents. The recommendation was to delete or modify specific incidents to be reported. The department decided it was best to delete those specifics altogether and revise the standard to be focused on major incidents that have negatively affected or that threaten the life, health, safety or welfare of residents.

22 VAC 40-72-320 The concern was that the standard for the staffing plan were too prescriptive for some facilities. The Department agreed to remove the detailed stipulations from the regulation, but concerns remain that there are some facilities that need the level of detail that was originally included in the proposal. It has been agreed that the Board will provide guidance and training for all assisted living facility licensing inspectors and those facilities identified as needing the information.

22 VAC 40-72-360 and 22 VAC 40-72-365 The general view was that the original mental health screening proposal was overly prescriptive, too inclusive, and confusing. It was also stated that the proposal went beyond the requirement of §63.2-1805.B. The Board revised the original proposal but maintained the requirement to conduct a mental health screening for both admission and retention, when recommended Board does not find any disadvantages to the public or the Commonwealth. The Board believes that assisted living facilities will be able to make better decisions about whether they can meet the needs of individuals with serious mental health disabilities based on their available resources.

22 VAC 40-72-500 A recommendation was made to modify the existing mental health services agreement standard as an alternative to 22 VAC 40-72-360 and 365. The Board believes that the recommended alternative standard would not offer sufficient information comparable to the standard proposed by the Board that would allow assisted living facilities to make the best decision regarding whether they can meet the needs of individuals with serious mental health disabilities based on their available resources.

22 VAC 40-72-510 The proposal to have facilities implement a plan to intervene when residents exhibit behaviors that might put them or others at risk for harm was eliminated. The Board acknowledged concerns that the expectations were not clear and that not all facilities had the knowledge and skills necessary to accomplish the expectations. The Board will advocate for more resources from the community mental health system to be made available to facilities with at-risk residents.

22 VAC 40-72-810. The concern related to one of the purposes specified for the resident council, i.e., reviewing the facility's policies and procedures and recommending changes or additions. This was seen as being too prescriptive and requiring the council to review policies and procedures it may not wish to review. The recommendation was to delete that purpose from the standards, which the Board did. This does not preclude the council from using its discretion to review selected policies and procedures as it deems appropriate.

22 VAC 40-72-950 The concern was that by changing the name of the standard from "Fire drill" to "Evacuation drill", that the Board was requiring more than the Virginia Statewide Fire Prevention Code. The public was concerned about the safety of residents having to fully evacuate from the building at any time of day or night and in any type of weather. The Division of Licensing Programs consulted with the State Fire Marshal and determined that it was appropriate to use the language referenced in the Virginia Statewide Fire Prevention Code and rename the standard "Fire and emergency evacuation drills". The standard now requires facilities to reference the Virginia Statewide Fire Prevention Code and their local fire official in developing their schedule for fire and emergency evacuation drills.

22 VAC 40-72-960. The concern was that the requirements regarding generators go beyond the scope and intent of the law, which is that facilities have the ability to connect to a temporary power source. It was stated that the law does not require an ALF to have its own generator. The standards, however, do not require an ALF to have its own generator. An ALF may have a generator on site or have an agreement with an entity that will provide a generator within four hours of notification.

Changes made since the proposed stage

Please describe all changes made to the text of the proposed regulation since the publication of the proposed stage. For the Registrar's office, please put an asterisk next to any substantive changes.

Section number	Requirement at proposed stage	What has changed	Rationale for change
22 VAC 40-72-10	This section includes definitions of words and terms used in the regulation.	<p>The following definitions were changed:</p> <p>“Administrator” – added that the administrator is responsible for the general administration of a facility.</p> <p>“Advance directive”- deleted the word “NOT</p> <p>“Independent living environment” and “Independent living status” – added taking medication without the assistance of another person.</p> <p>“Licensee” - added company or public agency.</p> <p>“Psychopharmacologic drug” – added United States to the Food and Drug Administration.</p> <p>“Resident” – added for the purpose of receiving maintenance or care.</p> <p>“Staff or staff person” – changed the defined term to “staff or staff person” from “employees”. Modified definition of “physician” to include doctor of osteopathic medicine for consistency with definitions in the law and regulations for the Board of Medicine; modified definition of “medication aide” for clarity; add [(s) or (ed)] definition for “prescriber” for consistency with law and regulations for the Boards of Medicine and Pharmacy; add [(s) or (ed)] definition for “dietary supplement” as this term is now used in these regulations.</p>	<p>To clarify existing concepts and define new concepts.</p> <p>Throughout the remainder of the regulation, where language is identified as “NOTE,” the word “NOTE” has been stricken per guidance from the Office of Attorney General. In instances where the NOTE language was included as clarification or technical assistance, the language was also stricken per guidance from the Office of Attorney General.</p>
22 VAC 40-72-10		The definition of “behavioral health authority” has been added since the publication of the proposed regulations	The definition was required to be added because reference is made to the involvement of a behavioral health authority in responding to requests for mental health services in assisted living facilities.

<p>22 VAC 40-72-10</p>	<p>"Behavior management" means those principles and methods employed by a provider to help an individual receiving services to achieve a positive outcome and to address and correct inappropriate behavior in a constructive and safe manner. Behavior management principles and methods must be employed in accordance with the individualized service plan and written policies and procedures governing service expectations, treatment goals, safety and security.</p>	<p>The definition of "Behavior management" was eliminated</p>	<p>This definition is no longer required because the standard in which it was used, i.e., 22 VAC 40-72-510, was eliminated.</p>
<p>22 VAC 40-72-10</p>	<p>High risk behavior" means any behavior, including an expressed intent, that exposes, or has the potential to expose, the person exhibiting the behavior, or those being exposed to the behavior, to harm. Examples of include the following: physically assaulting others or gesturing, making suicidal attempts, verbalizing a threat to harm self or others, verbalizing an unrealistic fear of being harmed by others, destroying property that exposes self or others to harm, wandering in or outside of the facility, being intrusive in the personal space of others, putting objects or liquids in the mouth that are mistaken as food or consumable fluids, increased physical activity such as floor pacing that might indicate anxiety or stress, increased or confusing speech</p>	<p>The definition of high risk behavior was eliminated</p>	<p>This definition is no longer required because the standard in which it was used, i.e., 22 VAC 40-72-510, was eliminated.</p>

	<p>pattern or communications that might indicate a disorder of thought process, decreased physical activity such as staying in bed, not eating, or not communicating that might indicate depression.</p>		
22 VAC 40-72-10	<p>"Mental impairment" means a disability that reduces an individual's ability to reason, make decisions, or engage in purposeful behavior.</p>	<p>"Mental impairment" means a disability that reduces an individual's ability to reason <u>[logically]</u>, make <u>[appropriate]</u> decisions, or engage in purposeful behavior</p>	<p>The definition was revised for clarity.</p>
22 VAC 40-72-10	<p>Definitions of mentally ill and mentally retarded were added.</p>	<p>The definitions were stricken and replaced with the following:</p> <p>"Mental illness" means a disorder of thought, mood, emotion, perception, or orientation that significantly impairs judgment, behavior, capacity to recognize reality, or ability to address basic life necessities and requires care and treatment for the health, safety, or recovery of the individual or for the safety of others.</p> <p>"Mental retardation" means a disability, originating before the age of 18 years, characterized concurrently by (i) significantly subaverage intellectual functioning as demonstrated by performance on a standardized measure of intellectual functioning, administered in conformity with accepted professional practice, that is at least two standard deviations below the mean and (ii) significant limitations in adaptive behavior as expressed in conceptual, social, and practical adaptive skills.</p>	<p>Changed language to be consistent with 37.2-100 Code of Virginia.</p>
22 VAC 40-72-10	<p>"Qualified mental health professional" means a who is trained and experienced in providing psychiatric or mental health services to</p>	<p>"Qualified mental health professional" means a [clinician in the health professions] <u>behavioral health professional</u> who is trained and experienced in providing psychiatric or</p>	<p>The definition was revised to reduce redundancy and to ensure that individuals who may provide services in the role of a qualified mental</p>

	<p>individuals who have a psychiatric diagnosis, including and limited to (i) a physician: a doctor of medicine or osteopathy; (ii) a psychiatrist: a doctor of medicine or osteopathy, specializing in psychiatry and licensed in Virginia; (iii) a psychologist: an individual with a master's degree in psychology from a college or university accredited by an association recognized by the U.S. Secretary of Education, with at least one year of clinical experience; (iv) a social worker: an individual with at least a bachelor's degree in human services or related field (social work, psychology, psychiatric rehabilitation, sociology, counseling, vocational rehabilitation, or human services counseling) from an college or university accredited by an association recognized by the U.S. Secretary of Education, with at least one year of clinical experience providing direct services to persons with a diagnosis of mental illness; (v) a Registered Psychiatric Rehabilitation Provider (RPRP) registered with the International Association of Psychosocial Rehabilitation Services (IAPSRS); (vi) a registered nurse licensed in the Commonwealth of Virginia with at least one year of clinical</p>	<p>mental health services to individuals who have a psychiatric diagnosis, including and limited to (i) a physician[-a doctor of medicine or osteopathy; (ii) a psychiatrist: a doctor of medicine or osteopathy, specializing in psychiatry and] licensed in Virginia; [(iii)-(ii)] a psychologist: an individual with a master's degree in psychology from a college or university accredited by an association recognized by the U.S. Secretary of Education, with at least one year of clinical experience; [(iv)-(iii)] a social worker: an individual with at least a [bachelor's master's] degree in human services or related field (social work, psychology, psychiatric rehabilitation, sociology, counseling, vocational rehabilitation, or human services counseling) from an college or university accredited by an association recognized by the U.S. Secretary of Education, with at least one year of clinical experience providing direct services to persons with a diagnosis of mental illness; [(v)-(iv)] a Registered Psychiatric Rehabilitation Provider (RPRP) registered with the International Association of Psychosocial Rehabilitation Services (IAPSRS); [(vi)-(v)] a [registered nurse clinical nurse specialist or psychiatric nurse practitioner] licensed in the Commonwealth of Virginia with at least one year of clinical experience working in a mental health treatment facility or agency; [(vii)-(vi)] any other licensed mental health professional; or (viii) any other person deemed by the Department of Mental Health, Mental Retardation and Substance Abuse Services as having qualifications equivalent to those described in this</p>	<p>health professional meet the qualifications contained in the definition.</p>
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	experience working in a mental health treatment facility or agency; (vii) any other licensed mental health professional; or (viii) any other person deemed by the Department of Mental Health, Mental Retardation and Substance Abuse Services as having qualifications equivalent to those described in this definition.	definition. [Any unlicensed person who meets the requirements contained in this definition shall either be under the supervision of a licensed mental health professional or employed by an agency or organization licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services.]	
22 VAC 40-72-10	"Risk management" means a planned set of strategies intended to eliminate or reduce potential or actual harm to persons from risks to their person or well-being, including but not limited to, environmental and physical hazards, harm from others or from self.	The definition of risk management was eliminated	This definition is no longer required because the standard in which it was used, i.e., 22 VAC 40-72-70, was eliminated.
22 VAC 40-72-30	This standard specifies requirements for dedicated hospice facilities.	Requirements have been added specifying who may administer drugs and who may conduct health care oversight in dedicated hospice facilities.	To coordinate with Department of Health regulations.
22 VAC 40-72-50	This section specifies the responsibilities, qualifications, and training required for licensees.	Establishing procedures was added to the responsibilities of the licensee. Regarding required training upon initial application for a license, "at his discretion" was added to the authority of the commissioner to approve applicants who meet experience criteria established by the board.	To provide more precise language and to clarify requirements.
22 VAC 40-72-60	This section provides for consistent public disclosure of information regarding assisted living facilities.	*Changes were made so that 1) disclosure of names of other assisted living facilities is limited to currently licensed facilities, 2) disclosure of the owner of leased property is no longer required, 3) transfer to another gradation or type of care was added to level of care, and 4) indication of whether contractors are used to provide essential services is no longer required, although names of	To reduce the information in the disclosure statement to make it more user friendly, to adhere more closely to that required directly by law, and to clarify intent.

		contractors must still be provided upon request..	
22 VAC 40-72-70	22 VAC 40-72-70. Risk management. The facility shall develop, implement, monitor, and evaluate a risk management plan for the facility that addresses risk[s] to residents, employees, volunteers and visitors. The plan shall be in writing and shall include procedures for identifying, monitoring, and evaluating efforts taken to preventing or minimizing risks associated with, but not limited to, injuries, errors in medication administration or documentation, dermal ulcers, infections, falls, wandering, aggression, suicide and suicide attempts, assaults, resident abuse, procedure errors, and environmental and physical hazards.	The proposed requirement for a risk management plan was eliminated	After considering all comments, VDSS decided against imposing a requirement to have a risk management plan on all facilities. Rather, VDSS decided that the requirement for a risk management plan may be an option when adverse enforcement actions are being considered for an assisted living facility that has demonstrated systemic failures to comply with standards.
22 VAC 40-72-80	22 VAC 40-72-80. Quality improvement. A. Each assisted living facility shall develop and implement an ongoing quality improvement program to evaluate objectively and systematically the quality of resident care and services, pursue opportunities to improve care and services, and resolve identified problems. B. Each facility shall perform a comprehensive, integrated, self-assessment of the quality and appropriateness of care provided to meet the	The proposed requirement for a quality improvement plan was eliminated	After considering the comments, VDSS decided against imposing a requirement to have a quality improvement plan on all facilities. Rather, VDSS decided that the requirement for a quality improvement plan may be an option when adverse enforcement actions are being considered for an assisted living facility that has demonstrated systemic failures to comply with standards.

	<p>needs of residents, including services provided under contract or agreement. The administrator shall involve in the assessment direct care staff and any other employees as deemed appropriate. The self-assessment shall be performed at least quarterly and shall include, but not be limited to, an examination of the following:</p> <ol style="list-style-type: none"> 1. Appropriateness of services provided to residents; 2. Results of resident care; 3. Degree of individual resident participation in decisions regarding the care and services provided to him. 4. Unacceptable or unexpected trends or occurrences; 5. Degree of satisfaction of residents and their families; 6. Appropriateness of complaint resolution; 7. Employee concerns; 8. Findings and recommendations from the health care oversight required by 22 VAC 40-72-480 and actions taken as a result; 9. Incident reports and other occurrences as required in 22 VAC 40-72-100; and 10. Findings of department inspections and actions taken to correct violations. <p>C. The facility shall use the findings of the self-assessment to improve the quality and appropriateness of care</p>		
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	<p>and services to residents. The facility shall develop and implement appropriate plans of action to:</p> <ol style="list-style-type: none"> 1. Correct identified deficiencies and their causes; 2. Resolve systemic problems; 3. Revise policies and practices, as necessary; <p>and</p> <ol style="list-style-type: none"> 4. Improve overall care and services. <p>D. The facility shall document compliance with these requirements and the outcomes of the plans of action. Relevant dates and the signature of the administrator indicating review of the documentation shall be included. The documentation for at least the most recent three year period shall be maintained at the facility.</p>		
22 VAC 40-72-90	The standard addresses infection control programs.	No substantive changes.	Reworded for clarity.
22 VAC 40-72-100	The standard provides that facilities report to the department specified incidents and occurrences, and provides instructions regarding documentation and reporting.	*The listing of specific occurrences that must be reported has been eliminated, and circumstances that require amendments to the report have been made more limited.	To eliminate the unintended reporting of certain occurrences, while still meeting the intent of the standard.
22 VAC 40-72-110	22 VAC 40-72-110. Provision of data. As requested by the department, but not more than twice annually, the facility shall provide the department with demographic and clinical data on its residents. Such data may include, but shall not be limited to, the average age of persons in care, number of	The proposed requirement for a report on demographic data twice a year was eliminated	After considering the comments, VDSS decided to not impose a routine requirement for assisted living facilities to provide demographic data. Rather, VDSS will act on the authority pursuant to §63.2-1708, "Records and Reports," to collect demographic data and other information on residents served in assisted living facilities

	private pay persons and number of public pay persons, and the number of persons meeting certain major medical and psychiatric diagnostic categories.		when deemed necessary.
22 VAC 40-72-140	To provide a statement to the resident only.	*Added that monthly statement may be provided to a conservator or guardian, if one has been appointed.	To ensure that statements are being reviewed by a responsible party if the resident is not able to do so.
22 VAC 40-72-180 C 10	"Methods of easing adjustment difficulties for common adjustment problems..."	"Methods of alleviating common adjustment problems..."	Reworded for comprehension
22 VAC 40-72-190	The section specifies the responsibilities of the administrator.	Responsibility for the general administration of the facility was added.	To clarify the intent of the standard.
22 VAC 40-72-200	The standard provides for the qualifications of the administrator.	*A requirement for continuous employment was added to an exception for certain administrators and a requirement that the person be a registered nurse was added to another exception. A provision was added that administrators for the assisted living level of care be licensed when required by the Board of Long-Term Care Administrators, and that this licensure replace specific qualifications noted in the assisted living facility regulations. Clarification was made regarding administrators not being residents of the facility.	To ensure that administrators are qualified for the position.
22 VAC 40-72-210 C	"...complete refresher training when standards are revised..."	*"...complete training on standards when they are revised..."	Administrators may not have completed initial training; instead of "refresher" training, training may occur any time there are revisions
22 VAC 40-72-210 D	No grace period for completing the training was included.	*Added a 6 month period for administrators to complete the medication training from the effective date of these standards.	To ensure that all administrators have ample time to complete the training per the standard requirement.
22 VAC 40-72-220	The section provides for a shared administrator for smaller facilities	*The option of a department approved course to meet qualification requirements was	To clarify and to allow for an additional method of qualification for the

	under certain circumstances.	modified to indicate that the course is 40 or fewer hours and that it is specific to the management of an assisted living facility. Also, an exception was added for licensed nurses.	position.
22 VAC 40-72-230	The standard specifies requirements for a shared administrator for an assisted living facility and a nursing home.	*The option of a department approved course to meet qualification requirements was modified to indicate that the course is 40 or fewer hours and that it is specific to the management of an assisted living facility. Also, an exception was added for licensed nurses.	To clarify and to allow for an additional method of qualification for the position.
22 VAC 40-72-240	The section provides for a designated staff person in charge when the administrator or manager is not on duty.	A requirement was added that the staff person in charge be on the premises, except when no residents are present. Also, a requirement for a schedule of when the person is in charge was added.	To ensure adequate supervisory coverage.
22 VAC 40-72-260	Standard does not identify who will do training.	*Added that training shall be provided "by a qualified individual"	To ensure that trainings are provided by an individual qualified to train in the training topic area and thereby enhance the quality and integrity of the training.
22 VAC 40-72-290	The standard contains record and health requirements for staff.	A change was made in the requirement for a criminal record report and sworn disclosure statement to eliminate the provision that it only applies to staff hired after July 1, 1992.	To conform with current law and background check regulations.
22 VAC 40-72-300	Required all direct care staff to be certified in first aid. Increased required number of CPR certified direct care staff in larger facilities. Required first aid and CPR certified staff at facility- sponsored events when facility transporting resident.	Added name of American Health and Safety Institute (ASHI) to approved list of trainers. Stipulated that training and certification must include <u>adult</u> first aid and CPR. Removed requirement for transporting staff members to be certified in CPR.	Nationally recognized training organization. Clarification that staff must have training that is appropriate for the population served. Requirement was cost-prohibitive for smaller facilities.
22 VAC 40-72-310	Training requirements regarding restrained residents.	*Added a training requirement regarding awareness of possible risks associated with restraint use and methods of	To ensure providers are adequately trained in the use of restraints.

		reducing or eliminating such risk.	
22 VAC 40-72-320	Added requirements for direct care staffing plan.	Removed the prescriptive details from the requirements for the plan.	Details will be used in inspector and provider training for those who need guidelines for developing plans.
22 VAC 40-72-340	<p>B. 4. An assessment of psychological, behavioral, and emotional functioning, conducted by a qualified mental health professional, if recommended by the UAI assessor, a health care professional, or the administrator or designee responsible for the admission and retention decision. This includes meeting the requirements of 22 VAC 40-72-360.</p> <p>The section includes requirements for admission and retention of residents.</p>	<p>B. 4. [An assessment] <u>[A screening]</u> of psychological, behavioral, and emotional functioning, conducted by a qualified mental health professional, if recommended by the UAI assessor, a health care professional, or the administrator or designee responsible for the admission and retention decision. This includes meeting the requirements of 22 VAC 40-72-360.</p> <p>*The stipulation for a mental health assessment, when needed, was changed to a mental health screening. The term use group was changed to use and occupancy classification. Requirements related to care for gastric tubes by unlicensed personnel was moved to another section.</p>	<p>VDSS accepted a recommendation from a mental health agency to replace the term “assessment” with the term “screening.”</p> <p>Regarding screening, to only require a screening initially. A full assessment is completed only when needed. Regarding use group terminology, to reflect current language in the building code. Regarding gastric tubes, to enhance organization of the standards.</p>
22 VAC 40-72-350	Added annual requirement for tuberculosis screening/testing for assisted living residents.	Modified 350.D to include “As necessary to determine whether a resident's needs can be met in the assisted living facility, the department may request a current physical examination or psychiatric evaluation including diagnoses and assessments.”	Modified for clarity. Remains consistent with the mandated responsibilities of the Commissioner.
22 VAC 40-72-360	<p>22 VAC 40-72-360. Mental health assessment.</p> <p>A. If there are observed behaviors or patterns of behavior indicative of mental illness, mental retardation, substance abuse, or behavioral</p>	<p><u>22 VAC 40-72-360. Mental health screening.</u></p> <p><u>A. A mental health screening shall be conducted prior to admission if behaviors or patterns of behavior occurred within the previous six months that were indicative of mental</u></p>	VDSS revised major sections of the requirements for a mental health screening to eliminate what was considered to be overly prescriptive, too inclusive, and confusing.

	<p>disorders, as documented in the uniform assessment instrument, the facility administrator or designated staff member shall ensure that an evaluation of the individual is or has been conducted by a qualified mental health professional. The evaluation shall include an assessment of the person’s psychological, behavioral, and emotional functioning. Conditions for which an evaluation is required include, but are not limited to:</p> <ol style="list-style-type: none"> 1. One or more acts of aggression against self, others, or property, that resulted in the resident being hospitalized, jailed, forced to leave a residence, or retained by the facility but managed using emergency measures; 2. Alcohol or drug abuse; 3. Noncompliant with psychotropic medications to the extent that intervention by a qualified mental health professional was required to prevent or reduce the risk of decompensation; 4. Disturbance in thinking, reasoning, and judgment that placed the resident or others at risk for harm; 5. Bizarre or maladaptive behavior such as reacting to irrational beliefs, visual or auditory hallucinations or engaging in behaviors such as pacing, rocking, mumbling to self, 	<p><u>illness, mental retardation, substance abuse or behavioral disorders and that caused, or continue to cause, concern for the health, safety, or welfare either of that individual or others who could be placed at risk of harm by that individual.</u> <u>EXCEPTION: If it is not possible for the screening to be conducted prior to admission, the individual may be admitted if all other admission requirements are met. The reason for the delay shall be documented and the screening shall be conducted as soon as possible.</u></p> <p><u>B. A mental health screening shall be conducted when a resident displays behaviors or patterns of behavior indicative of mental illness, mental retardation, substance abuse, or behavioral disorders that cause concern for the health, safety or welfare of either that individual or others who could be placed at risk of harm by the individual.</u></p> <p><u>C. The mental health screening shall be conducted by a qualified mental health professional having no financial interest in the assisted living facility, directly or indirectly as an owner, officer, employee, or as an independent contractor with the facility;</u></p> <p><u>D. A copy of the screening shall be filed in the resident’s record.</u></p> <p><u>E. If the screening indicates a need for mental health, mental retardation, substance abuse, or behavioral disorder services for the resident, the facility shall provide:</u></p> <ol style="list-style-type: none"> <u>1. Notification of the resident’s need for such services to the community services board, behavioral health authority, or</u> 	
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	<p>speaking incoherently, avoiding social interactions;</p> <p>6. Significant dysfunction in two or more of the following areas: interpersonal communication, problem-solving, personal care, independent living, education, vocation, leisure, community awareness, self-direction, and self-preservation;</p> <p>7. Any other condition for which an assessment is recommended by the administrator, a case manager or other assessor.</p> <p>B. The administrator or designated staff member shall ensure that an assessment of a person's psychological, behavioral, and emotional functioning is or has been conducted by a qualified mental health professional when at least one of the behaviors or conditions noted in subsection A of this section has occurred within the past six months. The sources of such information regarding behaviors or conditions may include, but are not limited to, the uniform assessment instrument, family members, the referring agency, or a facility staff person.</p> <p>C. The administrator shall ensure that the evaluation or assessment required by subsections A and B of this section meets the following criteria:</p>	<p><u>other appropriate licensed provider identified by the resident or his legal representative; and</u></p> <p><u>2. Notification to the resident, authorized contact person of record, and physician of record that mental health services have been recommended for the resident.</u></p>	
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	<p>1. If required for the purpose of making an admission decision, the assessment is not more than three months old;</p> <p>2. The assessment covers at least the following areas of the person's current functioning and functioning for the six months prior to the date of the assessment:</p> <ul style="list-style-type: none"> a. Cognitive functions; b. Thought and perception; c. Mood/affect; d. Behavior/psychomotor; e. Speech/language; f. Appearance; g. Alcohol and drug dependence/abuse; h. Medication compliance; and i. Psychosocial functioning. <p>3. The assessment is completed by a qualified mental health professional having no financial interest in the assisted living facility, directly or indirectly as an owner, officer, employee, or as an independent contractor with the facility.</p> <p>4. A copy of the assessment, if the person is admitted or is a current resident, is filed in the resident's record.</p> <p>D. If the evaluation or assessment indicates a need for mental health, mental retardation, substance abuse, or behavioral disorder services, the facility shall provide:</p> <ul style="list-style-type: none"> 1. A notification of the resident's need for such 		
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	<p>services to the authorized contact person of record when available; and</p> <p>2. A notification of the resident's need for such services to the community services board or behavioral health authority that serves the city or county in which the facility is located, or other appropriate licensed provider.</p> <p>E. As part of the process for determining appropriateness of admission, when a person with a mental health disability is referred by a state or private hospital, community services board, behavioral health authority, or long-term care facility, collateral information and supporting documentation, e.g. progress notes, shall be collected on the person's psychological, behavioral, and emotional functioning. In the case where the person is coming from a private residence, only collateral information shall be required and may be gathered from an interview with someone involved in the primary care of the person.</p> <p>1. The collateral information and supporting documentation shall cover a period of not less than six months of the person's care or treatment at the referring facility, or if the person's</p>		
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	<p>stay at the facility is less than six months, then the collateral information and documentation shall cover the person's entire stay.</p> <p>2. The administrator shall document that the collateral information and supporting document were reviewed and used to help determine the appropriateness of the person's admission.</p> <p>3. The administrator shall ensure that a copy of collateral information and supporting documentation, if the person is admitted, is filed in the resident's record.</p> <p>NOTE: When applicable, see 22 VAC 40-72-510 regarding high risk behavior.</p>		
<p>22 VAC 40-72-360 E</p>	<p>22 VAC 40-72-360 Mental health screening</p> <p>E. As part of the process for determining appropriateness of admission, when a person with a mental health disability is referred by a state or private hospital, community services board, behavioral health authority, or long-term care facility, collateral information and supporting documentation, e.g. progress notes, shall be collected on the person's psychological, behavioral, and emotional functioning. In the case where the person is coming from a private residence, only collateral information shall be required and</p>	<p><u>22 VAC 40-72-365. Psychosocial and Behavioral History</u></p> <p><u>A, When the process for determining appropriateness of admission for an individual with a mental health disability, the following information shall be obtained by the facility:</u></p> <p><u>1. If the prospective resident is referred by a state or private hospital, community services board, behavioral health authority, or long-term care facility, documentation of the individual's psychosocial and behavioral functioning shall be acquired.</u></p> <p><u>2. If the prospective resident is coming from a private residence, information about the individual's psychosocial and behavioral functioning shall be gathered from primary sources, such as family members or friends.</u></p> <p><u>NOTE: There is no</u></p>	<p>In the process of revising the requirements of Standard 22 VAC 40-72-360 Mental health screening, VDSS decided to establish the requirement for a psychosocial and behavioral history as a standard independent of the mental health screening, i.e., 22 VAC 40-72-360.E. The rationale is that a facility that is considering the admission of a person who may present safety concerns to self or others may not have the results back from a mental health screening that will help the facility determine whether it can meet the safety needs of the person, e.g., supervision. If this is the case, a facility may choose to admit the person, while waiting for the results of</p>

	<p>may be gathered from an interview with someone involved in the primary care of the person.</p> <p>1. The collateral information and supporting documentation shall cover a period of not less than six months of the person's care or treatment at the referring facility, or if the person's stay at the facility is less than six months, then the collateral information and documentation shall cover the person's entire stay.</p> <p>2. The administrator shall document that the collateral information and supporting document were reviewed and used to help determine the appropriateness of the person's admission.</p> <p>3. The administrator shall ensure that a copy of collateral information and supporting documentation, if the person is admitted, is filed in the resident's record.</p>	<p><u>requirement for written information from primary sources.</u></p> <p><u>B. The administrator or his designee shall document that the individual's psychosocial and behavioral history were reviewed and used to help determine the appropriateness of the admission and if the person is admitted, to develop an individualized service plan.</u></p> <p><u>C. If the individual is admitted, documentation of the psychosocial and behavioral history shall be filed in the resident's record.]</u></p>	<p>the screening, based on gaining some insight about the person's psychosocial and behavioral functioning over recent months.</p>
<p>22 VAC 40-72-380</p>	<p>The standard specifies personal and social information to be maintained on a resident.</p>	<p>*Information on lifetime vocation, career, or primary role was added and description of family structure and relationships was deleted.</p>	<p>Added information, to better understand and serve residents; deleted information, to respond to those who believe it was too intrusive.</p>
<p>22 VAC 40-72-390</p>	<p>The standard specifies the items that are to be included in the agreement between the resident and the facility.</p>	<p>*Acknowledgment of written assurance regarding the appropriateness of the license was added to the agreement. Annual review of the agreement was eliminated.</p>	<p>Regarding assurance, to ensure meeting Code requirement; regarding annual review, to eliminate unnecessary process and reduce paperwork.</p>
<p>22 VAC 40-72-410</p>	<p>22 VAC 40-72-410. Acceptance back in facility. A. An assisted living facility shall establish a</p>	<p>22 VAC 40-72-410. Acceptance back in facility. A. An assisted living facility shall establish [a process <u>procedures</u>] to ensure that any</p>	<p>This standard was revised to update the Codes referenced in the standard.</p>

	<p>process to ensure that any resident temporarily detained in an inpatient facility pursuant to § 37.1-67.1 of the Code of Virginia is accepted back in the assisted living facility if the resident is not involuntarily committed pursuant to § 37.1-67.3 of the Code of Virginia.</p> <p>B. If an assisted living facility allows for temporary movement of a resident with agreement to hold a bed, it shall develop and follow a written bed hold policy, which includes, but is not limited to, the conditions for which a bed will be held, any time frames, terms of payment, and circumstances under which the bed will no longer be held.</p>	<p>resident [temporarily detained in an inpatient facility <u>detained by an emergency custody order pursuant to § 37.2-808 of the Code of Virginia or by a temporary detention order</u>] pursuant to § 37.2-809 of the Code of Virginia is accepted back in the assisted living facility if the resident is not involuntarily committed pursuant to § 37.2-814 through 37.2-816 of the Code of Virginia.</p> <p>B. If an assisted living facility allows for temporary movement of a resident with agreement to hold a bed, it shall develop and follow a written bed hold policy, which includes, but is not limited to, the conditions for which a bed will be held, any time frames, terms of payment, and circumstances under which the bed will no longer be held.</p>	
22 VAC 40-72-420	<p>The standard includes requirements when a resident is discharged from a facility.</p>	<p>Added requirement for documentation of the beginning of discharge planning and specified that 14-day notification of discharge be in writing.</p>	<p>To improve discharge process for increased protection of the resident.</p>
22 VAC 40-72-430	<p>The standard specifies requirements for the uniform assessment instrument.</p>	<p>*Added a provision that when there is a significant change in the resident's condition, there must be a determination whether the resident's needs can continue to be met and whether continued placement in the facility is in the best interests of the resident.</p>	<p>To assure that a resident's health, safety, and welfare are adequately protected under changed circumstances.</p>
22 VAC 40-72-440	<p>The standard includes requirements for completion of the individualized service plan.</p>	<p>*Qualified mental health professional was added to those involved in the development of the plan, when appropriate. Also added was a requirement regarding evaluating the need for awake staff at night in buildings with 19 or fewer residents. Incorporation of an intervention plan for high risk behavior was deleted. An exception for</p>	<p>To improve process and content for the individualized service plan and to coordinate it with current standards.</p>

		signatures of people not present at the facility was added.	
22 VAC 40-72-450	The section specifies requirements for personal care services and general supervision and care of residents.	A change was made to specify that the requirement that a resident be free of odors relates to hygiene.	To clarify the requirement.
22 VAC 40-72-460	Added more specific requirements regarding the provision of health care related services.	Added provision for when gastric tube care is provided by unlicensed direct care staff.	Aimed at reducing the risk of preventable health care complications and ensuring health care needs are addressed in a timely manner.
22 VAC 40-72-480	Added requirements for the qualifications of the health care professionals responsible for the oversight. Increased frequency of oversight in the assisted living level of care to at least every 3 months and the residential living level to every 6 months.	Modified to include "...as a health care professional in an adult residential facility or adult day care center, an acute care facility, a nursing home, a licensed home care or hospice organization..."	To clarify the type and level of experience that qualifies the licensed professional for this task.
22 VAC 40-72-500	22 VAC 40-72-500. Mental health services coordination, support, and agreement. A. For each resident requiring mental health services, the services of the local community mental health, mental retardation and substance abuse services board, or a public or private mental health clinic, rehabilitative services agency, treatment facility or agent shall be secured as appropriate based on the resident's current evaluation. C. 1. Providers of mental health services shall include the local community mental health, mental retardation, and substance abuse	22 VAC 40-72-500. Mental health services coordination, support, and agreement. A. For each resident requiring mental health services, the services of the local community mental health, mental retardation and substance abuse services board, or a public or private mental health clinic, rehabilitative services agency, treatment facility or agent shall be secured as appropriate based on the resident's current evaluation. C. 1. [Licensed/credentialed providers] of mental health services shall include the local community [mental health, mental retardation, and substance abuse] services board; public or private mental	This standard was revised to correct a mistake made in referencing the title of the community services board. Also, the revised standard now contains a requirement for the assisting living facility to document information pertaining to the failure to secure recommended mental health services for a resident and whether the facility can continue to meet the needs of the resident, including safety, if the mental health services are not immediately available.

	<p>services board; public or private mental health clinic, treatment facility or agent; private psychiatrist, psychologist, therapist, or other appropriate mental health professional.</p> <p>3. A copy of the agreement shall remain on file in the assisted living facility.</p> <p>D. 4. a. The facility shall obtain written progress reports on each resident receiving services from the local community mental health, mental retardation and substance abuse services board, or a public or private mental health clinic, treatment facility or agent; private psychiatrist, psychologist, therapist, or other appropriate mental health professional.</p> <p>E. 4. Details of additional steps the facility will take to find alternative services to meet the resident's needs.</p>	<p>health clinic, treatment facility or agent; private psychiatrist, psychologist, therapist, or other appropriate mental health professional.</p> <p>3. A copy of the agreement shall remain on file in the assisted living facility.[If the facility is unable to secure an agreement with the mental health services provider that comports with subsection D of this section, the facility shall document the reason for the failure and all efforts made to secure the agreement]</p> <p>D. 4. a. The facility shall obtain written progress reports on each resident receiving services from the local community [mental health, mental retardation and substance abuse] services board, or a public or private mental health clinic, treatment facility or agent; private psychiatrist, psychologist, therapist, or other appropriate mental health professional.</p> <p>E. 4. Details of additional steps the facility will take to find alternative [services] [providers] to meet the resident's needs.</p>	
<p>22 VAC 40-72-510</p>	<p>22 VAC 40-72-510. Intervention for high risk behavior. A. At any time that facility staff observe that the resident is exhibiting or verbalizing an intent to engage in high risk behavior, and it is:</p>	<p>The proposed standard, i.e., Intervention for high risk behavior was eliminated.</p>	<p>After considering the comments, VDSS decided that intervention for serious emotional and behavioral problems would best be addressed by (1) increased involvement by the mental health providers</p>

	<p>1. Believed that a crisis situation has occurred as a result of the person's behaviors or thinking that has caused harm or presents the potential to cause harm to the person or others, the administrator shall ensure that the local community services board (CSB) is immediately contacted to request an evaluation for emergency intervention services; or</p> <p>2. Believed that the person's behaviors or thinking may not rise to the level that would require professional emergency intervention, the administrator shall ensure that the responsible mental health professional is contacted regarding the concerns with the person's behaviors or thinking within 24 hours of observation.</p> <p>a. If there is no one currently responsible for the treatment of the person exhibiting the mental health disturbance, a referral shall be made within 24 hours of observing the disturbance to the local CSB, or to a qualified mental health professional of the resident's choice, to determine whether there is a need for mental health services.</p> <p>b. The facility shall document the referral made to the CSB or other mental health agency and note the availability and date that services can be rendered.</p>		<p>servicing the area in which the residents live and (2) increasing educational and training opportunities for staff in assisted living facilities.</p>
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	<p>B. Following the initial notification of the CSB or other qualified mental health professional, the facility and the mental health treatment provider shall decide on the need for an intervention plan that shall be designed for and implemented by the facility. If there is a need for an intervention plan, the plan shall:</p> <ol style="list-style-type: none"> 1. Include a behavioral management tracking form that: <ol style="list-style-type: none"> a. Is developed, in consultation with the facility, by a qualified mental health treatment provider and when possible, in consultation with the resident or his legal representative. b. Incorporates, at a minimum, the following information: <ol style="list-style-type: none"> (1) Target or problem behaviors identified; (2) Identified triggers, motivators, behaviors or conditions associated with target behaviors, including medication side effects; (3) Interventions prescribed by mental health professionals or a facility supervisor to be employed by direct care staff; (4) Dates and times behaviors were last observed; (5) Impact of interventions on behaviors, or if prescribed interventions were not used, an explanation of the reason; (6) General description of, and detailed when possible, any 		
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	<p>subsequent actions that must be considered by the facility following a negative outcome of the prescribed interventions;</p> <p>(7) General description of, and detailed when possible, any subsequent actions that must be considered by the mental health treatment provider based on the presentation of the problems by the facility;</p> <p>(8) Consideration of the need for an updated mental health evaluation.</p> <p>c. Is maintained at the facility with:</p> <p>(1) The original being filed in the record with the ISP for each resident.</p> <p>NOTE: Should the tracking forms exceed five, the facility may choose to maintain the five most recent forms in the resident's current record and all others in an overflow record maintained for each resident.</p> <p>(2) A duplicate copy being filed for each resident, in an identifiable binder to permit timely access to information by facility employees so that it might be used to help manage or prevent problem behaviors from escalating or recurring.</p> <p>2. Be referenced in the ISP;</p> <p>3. Be reviewed and incorporated, to include information obtained from the behavioral management tracking form, in the written progress report required</p>		
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	<p>by 22 VAC 40-72-500 D 4. C. The facility shall have procedures in place to ensure that direct care staff members who have direct care responsibilities for residents with high risk behaviors are:</p> <ol style="list-style-type: none"> 1. Provided training on monitoring (such as when using the behavioral management tracking form) and intervening when high risk behaviors are exhibited; 2. Kept informed of the status of high risk behaviors exhibited by residents; <p>D. The facility shall not implement a restrictive behavioral management plan, which limits or prevents a person from freely exercising targeted rights or privileges, unless:</p> <ol style="list-style-type: none"> 1. The resident or legal representative has been informed of the need and description of the plan, 2. The plan is approved and supervised by a qualified mental health professional with no financial interest in the facility. 		
<p>22 VAC 40-72-520</p>	<p>Activities shall be planned under the supervision of the administrator or his designee</p>	<p>Changed “designee” to “other qualified staff”.</p>	<p>Ensure that the staff planning activities are qualified to do so.</p>
<p>22 VAC 40-72-560</p>	<p>The standard relates to the requirements for resident records.</p>	<p>*Requirements were added that records be easily located by resident name, whether hard copy or electronic material, and that there be a back-up and security system for electronic documents. A notation was added that model forms are available on the department’s</p>	<p>To clarify that records can be kept in more than one place and must be easily located and to provide for back-up and security for electronic material. To provide additional information on the availability of model</p>

		website.	forms.
22 VAC 40-72-580	<p>Allows residents the option of receiving meals in their rooms if the facility offers routine or regular room service.</p> <p>Adds a requirement that residents are allowed a minimum of 30 minutes to eat their meals.</p> <p>Adds requirement for monitoring food consumption and for intervention when nutritional problems are suspected or identified.</p>	<p>Adjusted sentence structure and terminology for clarity.</p> <p>Added “occasional, infrequent requests due to resident’s personal preference” to list of special circumstances under which meals may occasionally be served to resident in his room.</p> <p>Added documentation requirement so that facility administration and staff may track frequency and reasons for resident not eating in dining room.</p>	<p>To allow more decision-making freedom for residents in facilities that are able to accommodate these requests.</p> <p>For accountability. To ensure that infrequent requests do not become regular and routine for reasons that may place individual’s well-being at risk.</p> <p>To ensure that residents are not rushed at mealtime.</p> <p>To protect the health and well-being of residents who may be suffering from diagnosed or as yet undiagnosed complications of physical or mental health conditions resulting in failure to eat or failure to thrive.</p>
22 VAC 40-72-610	Added availability of between meal snacks.	No substantive changes.	Changes for clarity.
22 VAC 40-72-620	Added requirements for dietary manual, quarterly oversight of special diets by a dietician or nutritionist and availability of drinking water for hydration purposes.	No substantive changes	Changes for clarity.
22 VAC 40-72-630	Added requirements for the development of a facility-specific medication management plan to be approved by the department and the maintenance of	Modified to include “Methods to ensure that each resident’s prescription medications and any over-the-counter drugs and supplements ordered for the resident are filled and refilled in a timely manner to avoid	Changes for clarity.

	reference materials related to medication administration and management.	missed dosages.” “methods to ensure that residents do not receive medications or dietary supplements to which they have known allergies.”	
22 VAC 40-72-640	Added requirements for obtaining new orders for administering medications and treatments when a resident returns from a hospital admission.	No substantive change.	Changes for clarity.
22 VAC 40-72-650	Added requirements for storage of controlled substances.	Modified to include “Controlled substances including Schedule II drugs and any other drugs subject to abuse must] be kept in a separate storage compartment, e.g., a locked cabinet within a locked storage area or a locked container within a locked cabinet or cart except when the facility uses a unit dose packaging system in which the quantity stored is minimal and a missing dose can be readily detected.”	More consistent with Board of Pharmacy requirements and standards of practice in other long-term care settings.
22 VAC 40-72-660	Added requirements for medication aide training, refresher training and supervision of medication aides.	Removed the stipulation that medication aides be supervised on all sites on all shifts and restricted the supervision of medication aides to an individual licensed to administer medications or the administrator or designated assistant administrator.	Cost prohibitive to providers. Ensures that supervisory staff actually meets minimal qualifications to supervise med aide staff.
22 VAC 40-72-670	Added specificity to the requirements related to the administration of medications including preparation, use of stat-drug boxes and following Board of Nursing Approved curriculum guidelines.	Modified 670.B to include “All medications shall be removed from the pharmacy container by an authorized person and administered by the same authorized person <u>not earlier than 1 hour before and not later than 1 hour after the facility’s standard dosing schedules, except those drugs that are ordered for specific times, such as before, after or with meals.</u> Pre-pouring <u>for later administration</u> is not permitted. Included the requirements for use of the stat –drug box using	For clarity. Consistency.

		the terminology consistent with the Board of Pharmacy guidance for this provision. Modified curriculum requirements to be consistent with “current” Board of Nursing approved curriculum.	Consistency.
22 VAC 40-72-730	The section includes specifications for resident rooms.	*A requirement was added that for new construction and change in use and occupancy classification, the closet or wardrobe space had to be in the resident’s room.	To provide greater accessibility and increase privacy.
22 VAC 40-72-810	The standard specifies the requirements for a resident council.	*Regarding the purpose of the council, improving the quality of life was broadened beyond the activity program and reviewing the facility’s policies and procedures was eliminated.	To enhance the resident council and to eliminate an unnecessary function that could be problematic.
22 VAC 40-72-820	Requirements for pets living in the assisted living facility.	*Added a requirement for maintaining documentation of immunization and examination at the facility.	To ensure that necessary documentation is available regarding the health and safety of pets living in the facility.
22 VAC 40-72-830	Requirement for facility to ensure the health of a visiting pet.	*Removed the requirement to “ensure” and replaced it with the wording that pets “shall be” in good health.	Pet owners will be responsible for the health of the pet, not the facility.
22 VAC 40-72-840	The section includes general requirements for buildings and grounds.	The term use group was changed to use and occupancy classification.	To conform to current language in the building code.
22 VAC 40-72-850	The standard contains requirements for the maintenance of buildings and grounds.	*The examples of furnishings and equipment to be well kept were expanded. A requirement that elevators be inspected in accordance with the building code was added. A schedule of inspection for maintenance and cleaning was deleted.	To clarify and to assure conformance with the building code and to eliminate an unnecessary requirement.
22 VAC 40-72-860	The standard contains requirements for heating, ventilation, and cooling.	*The local building authority was added to approve space heaters. The temperature when cooling devices become necessary was changed to when the inside temperature exceeds 80 degrees, rather than 82. Terminology for building classification was updated. Costs and funding resources were eliminated from the implementation plan for air condition.	To be in conformance with the building code, to adequately protect residents from heat related illness or discomfort, and to eliminate a requirement for an implementation plan that was not necessary.
22 VAC 40-72-880	The standard contains requirements for	A change was made in the terminology for use	To update to be in conformance with the

	resident sleeping quarters.	classification.	building code.
22 VAC 40-72-890	The standard provides requirements for toilets, sinks and bathing facilities.	*A change was made in the terminology for use classification. A requirement was added that handrails and grab bars for tubs, showers and toilets be installed in compliance with the building code.	To conform with the building code and ensure safety.
22 VAC 40-72-910	The standard provides for signaling/call systems.	When written logs of rounds must be kept, the period for retention of the logs was changed from three months to two years.	To provide consistency throughout the standards regarding record retention time frames.
22 VAC 40-72-930 A	To develop the facility emergency preparedness manual in accordance with a department approved manual	*The requirement to develop the facility Emergency Preparedness and Response Plan in accordance with a department approved manual has been deleted.	Each locality has an Emergency Management Office that providers can access for assistance in developing their Emergency Preparedness and Response Plan. This will allow the plan to address specific emergency operations within each facility's geographic location.
22 VAC 40-72-930 A 3 g	"Community outreach"	"Community resource accessibility"	The change was made to more accurately describe the function of identifying available community resources.
22 VAC 40-72-930 A 6	Written procedures for quarterly testing of the implementation of the emergency preparedness and response plan.	*Deleted the requirement	Testing the implementation of the plan would be difficult. 22 VAC 40-72-930 C requires that the plan be reviewed quarterly by staff, residents and volunteers which will provide knowledge for implementing the plan.
22 VAC 40-72-930 A 7	Written procedures for an evaluation immediately following the quarterly test of the plan.	*Deleted the requirement	Since the testing of the implementation of the plan was deleted there is no need to evaluate the testing of the implementation of the plan.
22 VAC 40-72-940	Terminology: "Emergency evacuation plan"	Terminology: "Fire and emergency evacuation plan.	Change in terminology refers directly to the language used in the Virginia Statewide Fire Prevention Code.

22 VAC 40-72-940 A	"...other emergency that requires evacuation."	"...other emergency."	Restructured sentence
22 VAC 40-72-950	Terminology: "Evacuation drills"	Terminology: "Fire and emergency evacuation drills"	Change in terminology refers directly to the language used in the Virginia Statewide Fire Prevention Code.
22 VAC 40-72-950 A	Scheduling requirements for conducting evacuation drills	*Fire and emergency evacuation drill frequency and participation shall be in accordance with the current edition of the Virginia Statewide Fire Prevention Code. The drills required for each shift in a quarter shall not be conducted in the same month.	Change reflects the language written in the Virginia Statewide Fire Prevention Code.
22 VAC 40-72-950 B	"...question whether all residents can meet the requirements of the approved emergency evacuation plan."	"...question whether the requirements of the approved fire and emergency evacuation plan can be met."	The focus is on the fire and emergency evacuation plan, and if the requirements of such can be met within the facility.
22 VAC 40-72-950 E 4	Requirement to maintain the names of residents who did not participate in the fire and emergency evacuation drill and the reason.	*Deleted this requirement	Unnecessary documentation.
22 VAC 40-72-960	The section specifies requirements for emergency equipment and supplies.	*A change was made to clarify that the first aid kit not contain expired items and that the kits be checked monthly, rather than quarterly. A requirement was added that vehicles used for field trips have first aid kits. Regarding an agreement for generators, the word contractual was eliminated and other entity was added to company. Modified the hours when flashlights and lanterns are required to be available.	To ensure first aid kits are complete and up to date, and available on field trips, to clarify language regarding an agreement for an emergency generator, and to modify hours for flashlights/ lanterns to ensure darkness is covered.
22 VAC 40-72-970	"...have a plan..."	"...have a <u>written</u> plan..."	For clarity, added that the plan will be written
22 VAC 40-72-1010	22 VAC 40-72-1010. Employee training. B. Commencing immediately upon employment and within six months, direct care staff shall attend four hours of training in cognitive impairment that meets the requirements of	22 VAC 40-72-1010. Employee training. B. Commencing immediately upon employment and within six [four] months, direct care staff shall attend four hours of training in cognitive impairment that meets the requirements of subsection C of this section.	VDSS accepted a recommendation to reduce the timeframe for direct care staff to receive training on cognitive impairments from six to four months.

	<p>subsection C of this section.</p>		
<p>22 VAC 40-72-1100</p>	<p>22 VAC 40-72-1100. Activities. A. Each week a variety of scheduled activities shall be available that shall include, but not necessarily be limited to, the following categories: 1. Cognitive/mental stimulation/creative activities, e.g., discussion groups, reading, story telling, writing; 2. Physical activities (both gross and fine motor skills), e.g., exercise, dancing, gardening, cooking; 3. Productive/work activities, e.g., practicing life skills, setting the table, making decorations, folding clothes; 4. Social activities, e.g., games, music, arts and crafts; 5. Sensory activities, e.g., auditory, visual, scent and tactile stimulation; 6. Reflective/contemplative activities, e.g., meditation, reminiscing, and poetry readings; 7. Outdoor activities, weather permitting; e.g., walking outdoors, field trips; and 8. Nature/natural world activities, such as interaction with pets, making flower arrangements, watering indoor plants, and having a picnic. NOTE: Several of the examples listed above may fall under more than one category. NOTE: These activities</p>	<p>22 VAC 40-72-1100. Activities. A. Each week <u>[there shall be at least 16 hours of]</u> a variety of scheduled activities <u>[shall be]</u> available <u>[to the residents. The 16 hour activity requirement replaces the numbers of hours per week specified in 22 VAC 40-72-520. The activities that]</u> shall include, but not necessarily be limited to, the following categories: 1. Cognitive/mental stimulation/creative activities, e.g., discussion groups, reading, story telling, writing; 2. Physical activities (both gross and fine motor skills), e.g., exercise, dancing, gardening, cooking; 3. Productive/work activities, e.g., practicing life skills, setting the table, making decorations, folding clothes; 4. Social activities, e.g., games, music, arts and crafts; 5. Sensory activities, e.g., auditory, visual, scent and tactile stimulation; 6. Reflective/contemplative activities, e.g., meditation, reminiscing, and poetry readings; 7. Outdoor activities, weather permitting; e.g., walking outdoors, field trips; and 8. Nature/natural world activities, such as interaction with pets, making flower arrangements, watering indoor plants, and having a picnic. [NOTE: Several of the examples listed above may fall under more than one category. NOTE: These activities do not require additional hours beyond those specified in 22 VAC 40-72-520.] B. If appropriate to meet the needs of the resident with a short attention span, there shall be multiple short activities. C. [Employees Staff] shall</p>	<p>VDSS accepted a recommendation to increase the number of hours of scheduled activities on the safe, secure environment (special care unit) from 14 to 16 hours each week.</p>

	<p>do not require additional hours beyond those specified in 22 VAC 40-72-520.</p> <p>B. If appropriate to meet the needs of the resident with a short attention span, there shall be multiple short activities.</p> <p>C. Employees shall regularly encourage residents to participate in activities and provide guidance and assistance, as needed.</p> <p>D. In addition to the scheduled activities required by 22 VAC 40-72-520, there shall be unscheduled employee and resident interaction throughout the day that fosters an environment that promotes socialization opportunities for residents.</p> <p>E. Residents shall be given the opportunity to be outdoors on a daily basis, weather permitting.</p> <p>F. As appropriate, residents shall be encouraged to participate in supervised activities or programs outside the special care unit.</p> <p>G. There shall be a designated employee responsible for managing or coordinating the structured activities program. This employee shall be on-site in the special care unit at least 20 hours a week, shall maintain personal interaction with the residents and familiarity with their needs and interests, and shall meet</p>	<p>regularly encourage residents to participate in activities and provide guidance and assistance, as needed.</p> <p>D. In addition to the [required] scheduled activities [required by 22 VAC 40-72-520], there shall be unscheduled [employee staff] and resident interaction throughout the day that fosters an environment that promotes socialization opportunities for residents.</p> <p>E. Residents shall be given the opportunity to be outdoors on a daily basis, weather permitting.</p> <p>F. As appropriate, residents shall be encouraged to participate in supervised activities or programs outside the special care unit.</p> <p>G. There shall be a designated [employee staff person] responsible for managing or coordinating the structured activities program. This [employee staff person] shall be on-site in the special care unit at least 20 hours a week, shall maintain personal interaction with the residents and familiarity with their needs and interests, and shall meet at least one of the following qualifications:</p> <ol style="list-style-type: none"> 1. Be a qualified therapeutic recreation specialist or an activities professional; 2. Be eligible for certification as a therapeutic recreation specialist or an activities professional by a recognized accrediting body; 3. Have one year full-time work experience, within the last five years, in an activities program in an adult care setting; 4. Be a qualified occupational therapist or an occupational therapy assistant; or 5. Prior to or within six months of employment, have successfully completed 40 hours of department-approved training in adult group activities 	
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	<p>at least one of the following qualifications:</p> <ol style="list-style-type: none"> 1. Be a qualified therapeutic recreation specialist or an activities professional; 2. Be eligible for certification as a therapeutic recreation specialist or an activities professional by a recognized accrediting body; 3. Have one year full-time work experience, within the last five years, in an activities program in an adult care setting; 4. Be a qualified occupational therapist or an occupational therapy assistant; or 5. Prior to or within six months of employment, have successfully completed 40 hours of department-approved training in adult group activities and in recognizing and assessing the activity needs of residents. <p>NOTE: The required 20 hours on-site does not have to be devoted solely to managing or coordinating activities, neither is it required that the person responsible for managing or coordinating the activities program conduct the activities.</p> <p>H. The facility shall obtain documentation of the qualifications as specified in subsection G of this section for the designated employee responsible for managing or coordinating the structured activities program. The documentation shall be</p>	<p>and in recognizing and assessing the activity needs of residents.</p> <p>NOTE: The required 20 hours on-site does not have to be devoted solely to managing or coordinating activities, neither is it required that the person responsible for managing or coordinating the activities program conduct the activities.</p> <p>H. The facility shall obtain documentation of the qualifications as specified in subsection G of this section for the designated <u>[employee staff person]</u> responsible for managing or coordinating the structured activities program. The documentation shall be retained in the <u>[employee's staff person's]</u> file. Written confirmation of department approval of training provided for in subdivision G 5 of this section shall also be retained in the <u>[employee's staff person's]</u> file, as appropriate.</p>	
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	retained in the employee's file. Written confirmation of department approval of training provided for in subdivision G 5 of this section shall also be retained in the employee's file, as appropriate.		
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Public comment

Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate.

Comments in the following chart identified as provided by "Agency," include comments from provider associations, other state and local agencies, and advocacy groups.

Commenter	Comment	Agency response
FAMILY (1) LICENSEE (4)	22 VAC 40-72-10 Definition of employee –Delete last sentence as contract personnel are not employees.	The regulations apply whether employees are hired directly by the facility or on a contractual basis since either way they have the same responsibilities.
VDSS STAFF (1)	Definition of chemical restraint – add convenience of the staff.	This is not necessary as it could be the convenience of the staff or someone else.
LICENSEE (4)	Definition of good character and reputation – it is an understood phrase and should not be defined in the regulations.	The definition provides clarity to what otherwise might be interpreted differently by different people.
AGENCY (5) ALF STAFF (50) ALF STAFF/ RESIDENTS (48) LICENSEE (26) PUBLIC (7)	Definition of independent living status – Allow for a family member to provide the assistance and still consider the resident to have independent living status.	Determination of independent living status depends upon what the residents can and can't do, not who provides the help if they need it.
LICENSEE (4)	Definition of legal representative – should be limited to the first sentence.	The concepts contained in the rest of the definition are important and an integral part of the definition.
AGENCY (5) ALF STAFF (50) PUBLIC (7) ALF STAFF/ RESIDENTS (48) LICENSEE (26)	Definition of resident – add provisions so that individuals who live in ALFs, but do not receive services are not included in the definition.	The definition was revised accordingly.

<p>VDSS STAFF</p>	<p>Definition of respite care – change to the planned admission of an aged, infirm or disabled adult who resides elsewhere for the purpose of maintenance and care on a temporary, regular, or intermittent basis.</p>	<p>It was deemed that the definition in the standards was appropriate.</p>
<p>ALF STAFF (65) LIC (20) AGENCY (57)</p>	<p>A recommendation was made to eliminate the definition. The general view was that the definition is too broad, confusing, and not a term generally used. In addition, it was stated that residents may exhibit a behavior that is listed as an example of high risk behavior when, in fact, the behavior is not high risk.</p>	<p>The intent of the definition of high risk behavior and the related standard was to emphasize the need for staff working in assisted living facilities to become aware of behaviors that might prove to be consistent warning signs of adverse events for certain residents. By facility staff becoming more familiar with a resident’s behavioral history, staff will have a much better chance to use proactive measures to prevent an dangerous event from occurring. However, after considering the comments and acknowledging that there must be considerably more education and training on behavioral principles and management for staff working with individuals with problematic behaviors, VDSS decided to eliminate the proposal to require intervention for high risk behavior. Instead, VDSS decided to pursue opportunities for more education and training in this area as well as to advocate for more resources to be made available through the community mental health system. This definition and the related standard, i.e., 22 VAC 40-72-510 Intervention for high behavior, were eliminated.</p>
<p>ALF STAFF (2) LIC (1) FAMILY (1)</p>	<p>A recommendation was made to revise the definition of high risk behavior in order to make the application clearer. There were a number of comments which recommended eliminating reference to certain behaviors listed as examples of possible high behaviors. The recommendation was based on the view that the definition is too broad, confusing, and not a term generally used.</p>	<p>The standards that referenced the title “mental health provider” were eliminated, thereby eliminating the need to include a definition of mental health provider. There are, however, a number of standards that reference the title “qualified mental health professional.”</p>
<p>AGENCY (34) ALF STAFF (1)</p>	<p>A recommendation was made to add the definition of mental health provider since the title was used in several places in the proposed regulation.</p>	<p>VDSS made certain revisions to the definition such as eliminating the redundancy of terms, ensuring that those who would conduct mental health screenings meet the appropriate qualifications, and adding a stipulation that unlicensed mental health professionals be appropriately supervised by a licensed mental health professional or agency. VDSS did not accept the view that the definition</p>
<p>AGENCY (34) ALF STAFF (1)</p>	<p>A recommendation was made to revise the definition of a qualified mental health professional because the proposed definition was too broad, it allowed the possibility of unqualified and unlicensed persons to perform a mental health screening, and it contained some redundancy of terms.</p>	<p>VDSS made certain revisions to the definition such as eliminating the redundancy of terms, ensuring that those who would conduct mental health screenings meet the appropriate qualifications, and adding a stipulation that unlicensed mental health professionals be appropriately supervised by a licensed mental health professional or agency. VDSS did not accept the view that the definition</p>

		<p>was too broad due to the fact that those who meet the educational and clinical experience requirements to be a qualified mental health professional come from a diverse human services field. VDSS could not accept an alternative definition offered that stated "...a licensed social worker: an individual with at least a bachelor's degree in human services or related field..." as this does not comport with § 54.1 of the Code of Virginia. Regulations of the Board of Health Professions require a master's degree as the minimum educational requirement for a licensed social worker, or a person so licensed working in a related human services field.</p>
AGENCY (1)	<p>22 VAC 40-72-30 Administration of medication in dedicated hospice facilities must be in compliance with the Department of Health regulations.</p>	<p>Requirements have been added specifying who may administer drugs and who may conduct health care oversight in dedicated hospice facilities to be in compliance with Department of Health regulations.</p>
ALF STAFF (1)	<p>22 VAC 40-72-30 A Comment that providers operating a dedicated hospice facility currently licensed as an assisted living facility are currently meeting the new State of Virginia Department of Health Regulations for the Licensure of Hospices, section 12 VAC 5-391-120. The new regulations from the Department of Health address regulatory issues surrounding dedicated hospice facilities.</p>	<p>Dual licensure under two separate state agencies can be problematic. DSS and VDH have worked closely regarding hospice providers, hospice services and the establishment of dedicated hospice facilities licensed as assisted living facilities. However, the choice to establish a facility and under which state agency that facility is licensed rests with the hospice provider as allowed in 12 VAC 5-391-120. The General Assembly has determined that governmental oversight of hospice care, and hospice programs, is necessary. HB 2772 (2003) allowed hospice providers to have unique hospice care facilities licensed as assisted living facilities. However, there is nothing in statute that requires hospice providers to establish such facilities or that they be licensed as assisted living facilities. There are two additional options for licensure as facilities that come under the Department of Health, the mandated oversight authority for hospice providers. Providers desiring to establish such facilities are welcome to do so under those provisions.</p>
AGENCY (1)	<p>Comment that the standards for dedicated hospice care are redundant. Dedicated hospices are required to meet two sets of regulatory guidelines and recommend that they be exempt from the assisted living facility regulation.</p>	
VDSS STAFF (1)	<p>Questions what is the definition of provider and is that a licensee. The terms should be consistent. Is the facility to be a DSS or HD licensed facility. It sounds like an ALF could be a hospice which is not a good idea because some will assume they can be like a nursing home.</p>	
VDSS STAFF (1)	<p>22 VAC 40-72-30 B Recommendation that it would be</p>	<p>This is better handled through technical assistance than through changes in the</p>

	better to make that decision rather than on a case by case basis which is what this implies. Questions whether there are HD regulations for a hospice and states that this is vague as written.	regulation.
VDSS STAFF (1)	22 VAC 40-72-30 C Questions inspection reports from what and who. There seems to be a need to decide regulatory authority over this and should be HD as the services are more medically oriented.	See responses to 22 VAC 40-72-30 A and B above.
PUBLIC (1)	22 VAC 40-72-50 Recommendation that out-of-state licensees be available at specific times to meet with concerned family member or residents.	This is up to the licensee and is not appropriate for a regulation. The administrator of the facility is on-site and can meet with concerned family members and residents.
LICENSEE (5)	Recommendation that references to "individuals" as licensees be deleted or add qualifying language.	Licensee is already defined in the definition section, 22 VAC 40-72-10, of the regulations.
AGENCY (1)	Recommendation that notification of a pending sale or closure of a facility be made as soon as practicable, but no later than 60 days prior to closure.	The standard requires notification no less than 60 days prior to the closure or sale date, unless this is not possible.
VDSS STAFF(1)	22 VAC 40-72-50 B 6 Recommendation that the standard include the schedule of maintaining it and how will it be evaluated.	Maintaining a budget means keeping it current to ensure the adequacy of funds.
FAMILY(1)	22 VAC 40-72-50 B 7 Recommendation that information should be maintained at the facility to avoid being in violation of residents' rights.	The standard already specifies that the information be maintained at the facility.
AGENCY (5) ALF STAFF (50) ALF STAFF/ RESIDENTS (48) LICENSEE (26) PUBLIC (7)	22 VAC 40-72-50 D 2 Recommendation that explanation be added for "experience criteria" to be used by the commissioner for approving an applicant for licensure.	The experience criteria must be established by the State Board of Social Services. At this point the State Board has not approved any experience criteria. "At his discretion" was added to the authority of the commissioner to approve applicants who meet experience criteria established by the board in order to clarify the language.
FAMILY (1) VDSS STAFF(1)	22 VAC 40-72-50 E 1 and 2 Recommendation that notification of a pending facility sale or closure be put in writing to the appropriate people.	It is likely that facilities will put this in writing to protect their own legal interests, although putting it in writing is not required by the standard. Speaking with an individual about a pending sale or closure may be more effective and kind than handing them something in writing.
AGENCY (3)	22 VAC 40-72-60	*Changes were made so that 1) disclosure

	<p>Recommendation that changes be made to the disclosure model form.</p>	<p>of names of other assisted living facilities is limited to currently licensed facilities, 2) disclosure of the owner of leased property is no longer required, 3) transfer to another gradation or type of care was added to level of care, and 4) indication of whether contractors are used to provide essential services is no longer required, although names of contractors must still be provided upon request. In addition, other changes on the form that are not part of the regulations are being considered.</p>
<p>PUBLIC (1)</p>	<p>22 VAC 40-72-60 A 4 j, k, l, m, n Concurs with the requirements of the standard.</p>	<p>No change is being requested by this comment.</p>
<p>AGENCY (13) ALF STAFF (58) FAMILY (2) LIC (34) PUB (3)</p> <p>AGENCY (59) ALF STAFF (20) LIC (29) PUB (2) VDSS STAFF(2)</p>	<p>22 VAC 40-72-70 A recommendation was made to eliminate the requirement for facilities to have a risk management plan. The general views were that having a plan would invite litigation and create additional liability for assisted living facilities, the requirements in the standard were too prescriptive and limited the freedom of facilities in choosing what areas to focus on, the standard went beyond the scope of licensing responsibilities in regulating facilities, many facilities do not have the knowledge and experience to be able to implement a plan, and additional paper work further reduces direct care given to residents.</p> <p>A recommendation was made to revise the requirement for facilities to have a risk management plan. The reasons given were similar to the views of those who recommended eliminating the standard. The revisions recommended involved reducing some of the requirements of the standard such as the areas facilities were to monitor and the frequency of reporting.</p>	<p>After VDSS considered all comments, the decision was made to not impose a requirement on all facilities to have a risk management plan. Instead, the decision was made to have the requirement for a risk management plan as an adverse enforcement related option when a facility has demonstrated systemic failures to comply with standards. VDSS also is committed to increasing the educational and training opportunities for assisted living facilities that have a need.</p>
<p>AGENCY (13) ALF STAFF (56) LIC (22) PUB (4) VDSS STAFF(2)</p>	<p>22 VAC 40-72-80 A recommendation was made to eliminate the requirement for facilities to have a quality improvement plan. The reasons given related to the perception</p>	<p>After VDSS considered all comments, the decision was made to not impose a requirement on all facilities to have a quality improvement plan. Instead, the decision was made to have a requirement for a quality improvement plan as an adverse</p>

<p>AGENCY (59) ALF STAFF (66) LIC (29) PUB (1)</p> <p>PUB (1)</p>	<p>that VDSS was micromanaging facilities, the amount of paperwork would be excessive and would diminish direct resident care, the standard is too prescriptive, the requirement goes beyond the scope of licensing's responsibility for regulating facilities, the requirement exposes facilities to increased litigation and liability.</p> <p>A recommendation was made to revise the proposed standard. The reasons given were similar to the views of those who recommended eliminating the standard. Some of the revisions recommended involved reducing the complexity of the standards, the reducing the frequency of reporting, allowing facilities to decide what areas to monitor, and clarifying certain terms used.</p> <p>One comment made was that the requirement of facilities to have a quality improvement plan should have a very positive impact on the services offered to the residents.</p>	<p>enforcement related option when a facility has demonstrated systemic failures to comply with standards. VDSS also is committed to increasing the educational and training opportunities for assisted living facilities that have a need.</p>
<p>AGENCY (4) DSS STAFF (1) FAMILY (2) LIC (22) PUB (6) STAFF (56)</p>	<p>22 VAC 40-72-90</p> <p>Concerned about the depth and breadth of the requirements. Either wanted more detail or less detail in the standard. One request for early health department involvement. Majority recommended requirement related to all staff and grounds be deleted because they posed no risk to direct care staff or residents.</p>	<p>Any plan must be appropriate for the facility in question. Plans will be as varied as the facilities, but must encompass basic handwashing, hygiene and infection control practices for all services, staff, building and grounds in order to address the direct and indirect risks for the spread of infection.</p>
<p>AGENCY (2) ALF STAFF (19) ALF STAFF/ RESIDENTS (48) LICENSEE (26) PUBLIC (2)</p> <p>ALF STAFF (40) AGENCY (4) LICENSEE (16) PUBLIC (5)</p>	<p>22 VAC 40-72-100</p> <p>Comments that the section is overly prescriptive and increases the potential for litigation.</p> <p>The requirements of the standard are overreaching and burdensome to contact the fire department and licensing for each fire drill.</p>	<p>The listing of specific occurrences that must be reported has been eliminated.</p>

ALF STAFF (1)	Comment that the incident reporting section is an attempt to micro-manage the facility.	
AGENCY (4) ALF STAFF (48) ALF STAFF/ RESIDENTS (48) LICENSEE (20) PUBLIC (7)	Recommendation that "EXCEPTION: If the whereabouts of a resident are unknown and there is reason to be concerned about his safety, the facility shall immediately notify the appropriate law enforcement agency, the resident's next of kin, legal representative, designated contact person, and any responsible social agency, as appropriate.	This requirement is found elsewhere in the regulations.
LICENSEE (1) ALF STAFF (1)	Recommendation that clarification be provided for what is considered a major incident.	The requirement was made more focused to refer to incidents that threaten the life, health, safety or welfare of a resident.
ALF STAFF (26) LICENSEE (13) PUBLIC (6)	22 VAC 40-72-100 A Recommendation to delete the section.	The listing of specific occurrences that must be reported has been eliminated.
FAMILY (1)	22 VAC 40-72-100 B Recommendation that "next day" be changed to "within twelve hours".	By the next working day was deemed to be reasonable and acceptable.
ALF STAFF (14) ALF STAFF/ RESIDENTS (48) LICENSEE (16) PUBLIC (2)	Recommendation to amend section B.	The listing of specific occurrences that must be reported has been eliminated.
PUBLIC (1)	22 VAC 40-72-100 B 2 Recommendation that incident reports go the Department of Health as well as DSS.	The listing of specific occurrences that must be reported has been eliminated from the ALF standards, but the Health Department standards would still specify any occurrences that need to be reported to them. ALFs must be in compliance with other state agency standards, as relevant.
FAMILY (1)	Recommendation that after food poisoning add "by a resident or".	The listing of specific occurrences that must be reported has been eliminated from the ALF standards, although the intent of the standard remains intact.
FAMILY (1)	22 VAC 40-72-100 D Recommendation that "calendar" be inserted before 'days'".	This is unnecessary since unless working days is specified, in an ALF, which operates every day, reference to days means calendar days.
FAMILY (1)	22 VAC 40-72-100 D 7 Recommendation that the original copy of the report be submitted by the person initially reporting the incident.	This is unnecessary as long as the report is submitted.
LICENSEE (4)	22 VAC 40-72- 100 E Recommendation is to delete the	The section was revised to stay focused on substantial actions.

	section due to it being overly burdensome.	
LICENSEE (4)	22 VAC 40-72-100 F Recommendation to insert "submitted to the government agency" after "written report".	A previous requirement specifies that the report be submitted to the licensing office.
AGENCY (42) ALF STAFF (57) LIC (28) PUB (3) VDSS STAFF(1)	22 VAC 40-72-110 A recommendation made to eliminate the proposed requirement to have facilities report demographic data to VDSS twice a year. The views against this proposal were that it had no direct impact on the care of residents, collecting the data would be too costly in terms of time and money, and the proposal goes beyond the regulatory role of VDSS.	After considering the comments, VDSS decided not to impose a routine requirement for assisted living facilities to provide demographic data. Rather, VDSS will act on the authority pursuant to §63.2-1708, "Records and Reports," to collect information on residents being served in assisted living facilities when deemed necessary.
FAMILY (1)	22 VAC 40-72-140 After the word resident add "or the resident's representative, conservator, or guardian as appropriate"	Added conservator or guardian, if one has been appointed.
AGENCY (37) LIC (32) PUB (28) STAFF (9)	Suggested changes to accommodate electronic storage of monthly statement or itemized receipts of the resident's account. Facilities with the capability to store records and account information electronically should be permitted to do so.	Added that the monthly statement and/or itemized receipts can be kept electronically for two years. Also, added that electronic retention of such must be protected by a back up and security system.
FAMILY (1)	22 VAC 40-72-150 A Apply the same change as above to this paragraph.	150 A 3 addresses the inclusion of a legal representative
FAMILY (1)	22 VAC 40-72-150 A 1 After the word held insert 'in a separate account' deleting the word "separately".	Language as currently written is appropriate.
FAMILY (1)	22 VAC 40-72-150 B The term resident in this paragraph appears to be only applicable to a person who is living in an assisted living facility and has no signs of dementia. Some very specific instructions must be inserted in this area to differentiate this condition.	The standard allows for an appointed legal representative to make this decision if the resident is unable.
ALF STAFF (1) LIC (5)	22 VAC 40-72-160 HR policies and procedures should not be mandated so specifically by regulation (requirements seem like a	This is a minimally acceptable best practice standard for personnel management.

	collective bargaining agreement - like the state is bargaining on behalf of employees)	
DSS STAFF (1)	22 VAC 40-72-160 D I think this is more of an internal procedure for the facility and we should not be required to check it. It deals more with Human Resource Management and we will become too involved with employee problems instead of focusing more on residents. Although we want appropriate staff, evaluations should not be focused into licensing.	DSS inspectors will be required to verify only that procedures exist for annually evaluating employee performance. DSS inspectors will not be required to evaluate the content of the performance evaluations.
LIC (5)	22 VAC 40-72-180 Again, too broad and overly burdensome. Orientation should be employer specific. Regulations are not the place to set forth HR policy and procedure.	This standard provides an outline of topics to be covered in employee orientation to enhance the safety and security of both residents and staff.
DSS STAFF (1)	22 VAC 40-72-180 C11 How will information be included? Possibly include in ISP.	This standard references training on the general needs, preferences and routines of the residents served within the facility. Specific information on each individual resident's needs would be included on the Intensive Services Plan.
ALF STAFF (3)	22 VAC 40-72-190 Comments that cost related to maintaining a full-time administrator at all times can be high.	This did not request a change in the standards.
PUBLIC (2) FAMILY (1)	22 VAC 40-72-190 E Recommendation to add requirement that the administrator's hours include some time during each shift and each day of the week. Questions the distribution of hours worked by the administrator beyond 24 hours for day shift on week days.	This was deemed to be micro-management of a facility. It is the responsibility of the administrator to make sure that the facility is in compliance with regulations during all shifts.
ALF STAFF (1) LICENSEE (1) AFL STAFF (2)	22 VAC 40-72-200 Comment that there should be a grandfather clause in the regulation. Recommendation that changes are needed in the qualifications for administrators, but allow more time to meet those requirements.	The regulation contains a grandfather clause.
ALF STAFF (2) PUBLIC (1)	Comments that this section is costly.	This did not request a change in the standards.

LICENSEE (1)	Comment that there are many different levels of education of administrators and difficult to come up with standards for all.	The standards apply to all but do allow for some exceptions.
FAMILY (1)	22 VAC 40-72-200 B Recommendation that "in good English" be inserted after "write" and "this chapter" be changed to "this regulation".	There is another that addresses English. Chapter is the official word.
FAMILY (1)	22 VAC 40-72-200 C Questions whether there is a difference among "residential living," "dementia living" and "restricted dementia living".	Residential living care is defined in 22 VAC 40-72-10. There is no concept of dementia living or restricted dementia living.
AGENCY (1)	22 VAC 40-72-200 E Recommendation to amend exception 2 by inserting "registered" before nurse.	The exception was changed to apply to a registered nurse.
AGENCY (1)	Recommendation that a note be added regarding expiration one year after the effective date of regulations promulgated by the Long-Term Care Administrators within the Department of Health Professions.	This change was made by adding a new subsection and referencing it in this one.
STAFF (1)	22 VAC 40-72-210 I was certified as an administrator in 2002 through a DSS approved program (AALCCC), completing all training in the top of the class. Now even though I have this certification and 4 years as an administrator and another six working with assisted living residents , I am (per the new regulations) not qualified to be an administrator??? I would also like to mention my facility has a two year license. I feel DSS should take into consideration those of us who have done all that we can to maintain the best facility possible and to go above and beyond for our residents care and needs. Administrators with DSS approved credentials and 3+ years as an administrator should be grandfathered into the new regulations. Also why do the med tech's need to be licensed by the state board of nursing and tested every six	22 VAC 40-72-210 A references first 12 months of employment and annual training requirements for administrators. 22 VAC 40-72-210 B references training for new administrators 22 VAC 40-72-200 references requirements for individuals employed as administrators. This standard reflects the current proposed requirements for Assisted Living Facility Administrators being put forth by the Board of Long-Term Care Administrators, designated to take effect July 1, 2007. 22 VAC 40-72-200 D 3 Exception #3 allows for administrators employed prior to the effective date of these standards who met the requirements in effect when employed to remain administrator. Medication aides are not "licensed" by the Board of Nursing. As of July 1, 2007 new requirements will be put in place by the Board of Nursing requiring medication aides who work in an Assisted Living Facility to

STAFF (1)	<p>months, but LPN's and RN's do not have to be tested???</p> <p>Concern regarding the expense of training. Recommendation that DSS pay for training, pay the staffs hourly wage while at training and then DSS would know the training meets their requirement and know who has attended the training.</p>	<p>become "certified".</p> <p>DSS strives to develop affordable training for providers. Providers are responsible for assuring that staff meet all training requirements and that proper documentation of such is located in the staff's personnel record.</p>
FAMILY (1)	<p>22 VAC 40-72-210 A Within 12 should be changed to read within a period of three (3) months.</p>	<p>Administrators are given a twelve month opportunity to complete required training within this standard</p>
PUBLIC (1)	<p>22 VAC 40-72-210 B The educational requirements should be met before one assumes the position.</p>	<p>This standard allows new administrators time to schedule and attend this training requirement.</p>
FAMILY (1)	<p>22 VAC 40-72-210 B Exception Delete "Exception"</p>	<p>22 VAC 40-72-210 B is a new standard. The previous standards did not require newly hired administrators to complete the training reference in 22 VAC 40-72-50 D, therefore, administrators employed prior to the effective date of these proposed standards will not be required to complete this training.</p>
FAMILY (1)	<p>22 VAC 40-72-210 C Delete the last phrase of this statement starting with unless</p>	<p>Information on the revision of trainings may be communicated to providers by means other than training. For example, information may be disseminated through a technical assistance document by mail.</p>
FAMILY (1)	<p>22 VAC 40-72-210 D Change four to read two months</p>	<p>This standard allows new administrators time to schedule and attend this training requirement.</p>
VDSS STAFF (1)	<p>22 VAC 40-72-220 Recommendation to delete the standard. The inclusion of a less qualified manager and person in charge lessens the protection of the residents in care. If there is a necessity for this arrangement, the licensee should apply for a variance and prove financial hardship.</p>	<p>The standard was written because smaller facilities do not have the economies of scale of larger facilities, and with the provisions included, the protection of residents should not be compromised.</p>
AGENCY (1)	<p>Recommendation to insert language requiring a schedule in a public place that specifies the administrator's and manager's schedules.</p>	<p>There is another standard that requires that a schedule be kept, but it does not have to be in a public place. It was deemed that posting of the schedule was not necessary and detracted from a homelike environment.</p>
LICENSEE (1)	<p>Recommendation that the DSS approved 40-hour manager course continue to be an option</p>	<p>This is not a regulatory issue, but relates to course approval.</p>

	for managers because a 16-hour course is inadequate to prepare managers for the day-to-day operations of an assisted living facility.	
FAMILY (1)	22 VAC 40-72-220 1 Recommendation to change the number of residents from 10 to 6.	It was deemed that 10 was appropriate and did not place residents at risk.
FAMILY (1)	22 VAC 40-72-220 1 b Recommendation that the administrator shall serve no more than two facilities instead of four.	It was deemed that four was appropriate and did place residents at risk.
AGENCY (4) ALF STAFF (36) LICENSEE (4) PUBLIC (4)	22 VAC 40-72-220 3 e (4) (c) Recommendation to insert "of at least 16 hours" after department approved course.	The option of a department approved course to meet qualification requirements was modified to indicate that the course is 40 or fewer hours and that it is specific to the management of an assisted living facility.
AGENCY (4) ALF STAFF (48) ALF STAFF/ RESIDENTS (48) LICENSEE (25) PUBLIC (7)	22 VAC 40-72-220 3 f Recommendation deleting section requiring the managers to undergo the same training requirements as administrators.	This training requirement relates to health and safety regulations and resident rights, which is important for the manager to know.
VDSS STAFF (1)	22 VAC 40-72-230 Comment that if a facility is licensed as an ALF and a nursing home, the manager should meet the requirements for the ALF administrator. If the administrator does not provide direct management to the ALF then the ALF should have an administrator because the administrator is generally an administrator for the nursing home and a figurehead for the ALF and not familiar with the ALF.	The law provides for a shared administrator so to require another administrator would be in conflict with the law.
FAMILY (1)	22 VAC 40-72-230 C 8 Recommendation to change 16 hours of training to eight.	The number of training hours required is the same as for direct care staff in the assisted living level of care and has been deemed to be appropriate for the manager.
ALF STAFF (1)	22 VAC 40-72-250 Comment that the current 120 days is more a reasonable time frame to complete training. The new standards put further hardship on the facilities.	It was deemed that four months was too long a time for the person to work and not have the training.
STAFF (1)	22 VAC 40-72-260 Due to the high turn over of staff, DSS should train staff and make available to providers a list of qualified staff to hire.	This is not a standards issue.
FAMILY (1)	22 VAC 40-72-260 A 2 At least four of the required eight hours of training shall focus on the	The current training requirement for this standard is sufficient to meet resident and staff needs at this time. Standard 22 VAC

	resident's that are mentally impaired.	40-72-260 B 2 requires additional training requirements in facilities licensed for both residential and assisted living care.
PUBLIC (1)	22 VAC 40-72-260 B The training and CPR requirements are much needed.	The training requirement for CPR is referenced in 22 VAC 40-72-300.
FAMILY (1)	22 VAC 40-72-270 A Recommendation that the standard state that "no" resident is allowed to perform duties of any employee.	It was deemed that a resident who is capable of performing staff duties and wishes to do so should be allowed to do so. This can promote independence and self-worth.
ALF STAFF (14) ALF STAFF/ RESIDENTS (48) LICENSEE (16) PUBLIC (2)	22 VAC 40-72-290 C 12 Recommendation to delete the requirement because employee evaluations are confidential and should not be open for review by DSS.	The availability to department staff was deemed important in helping with compliance matters.
ALF STAFF (14) ALF STAFF/ RESIDENTS (48) LICENSEE (16) PUBLIC (2)	22 VAC 40-72-290 C 13 Recommendation to delete the requirement because the disciplinary action taken is confidential and should not be open for review by DSS.	The availability to department staff was deemed important in helping with compliance matters.
ALF STAFF (1)	22 VAC 40-72-290 D Comment that the standard is vague. Questions what risk assessment and what time requirements are being considered. Must the employee get this assessment from private doctors or is this going to be a standardized form provided by the state.	The Health Department has a standardized form. The employee may get the assessment from a private doctor, who may or may not use the Health Department form.
LICENSEE (5)	22 VAC 40-72-290 D 1 a Recommendation to delete the term "risk assessment".	It was deemed that risk assessment was appropriate terminology.
LICENSEE (5)	22 VAC 40-72-290 E Recommendation to substitute "employees" for "individuals" because the latter is overly broad and too subjective.	A change was made to refer to staff person or household member.
LICENSEE (5)	22 VAC 40-72-290 F Recommendation to substitute "employees" for "individuals" because the latter is overly broad and too subjective.	A change was made to refer to staff person or household member.
AGENCY (6) DSS STAFF (1) FAMILY (2) LIC (43) PUB (8) STAFF (58)	22 VAC 40-72-300 While the public and families wanted strengthened requirements for first aid and CPR certified staff, the greater concerns were about the ability to provide certified staff on outings.	Added clarification that staff trained in first aid and CPR must be present at off-site functions where participating residents require oversight and supervision. Removed the requirement for residents being transported to appointments.
AGENCY (1)	22 VAC 40-72-310 2 b ADD: Risks associated with	Added a training requirement regarding awareness of possible risks associated with

	restraint use, and the very specific conditions under which restraints should be utilized when a less restrictive alternative is not an option.	restraint use and methods of reducing or eliminating such risk. Conditions under which restraints should be used is addressed in 22 VAC 40-72-700.
AGENCY (7) FAMILY (1) LIC (40) PUB (8) STAFF (63)	22 VAC 40-72-320 While public and family commenters wanted stronger and more detailed staffing requirements, the majority of the concerns were related to the burdensome requirements related to staffing plans.	Deleted the specificity in the requirements. Details will be provided in technical assistance guidance documents for Licensing inspectors and those facilities that need assistance with staffing issues.
FAMILY (1) PUB (1)	22 VAC 40-72-330 Concerned about failure to utilize the required communications methods.	This is a training and inspection issue and will be addressed in those venues.
ALF STAFF (1)	22 VAC 40-72-340 Questions who is to complete and pay for these assessments and is there a specific form to complete.	The UAI is a specific form; the physical exam report is a model form, which may or may not be used. Who is to complete the required information is specified in the standards.
VDSS STAFF (1)	22 VAC 40-72-340 B Comments about “shall not admit or agree to admit”. Some ALF do a tentative admission contingent on receipt of the required information.	There are provisions for emergency placements and for delayed mental health screenings.
VDSS STAFF (1)	22 VAC 40-72-340 G 5 Recommendation insert “written” before treatment plans and insert “completed by the prescribing physician or psychiatrist”.	The treatment plans do not have to be completed by a physician or psychiatrist. By their very nature, it would seem that treatment plans would be written.
VDSS STAFF (1)	Recommendation to specify what is needed in the treatment plan.	What is included in the plan might differ from person to person.
VDSS STAFF (1)	22 VAC 40-72-340 G 7 Recommendation to delete the reference to subsection J.	The requirement is allowed by law.
FAMILY (1)	22 VAC 40-72-340 G 9 Questions what is meant by “continuous licensed nursing care” and who is to make that decision?	Continuous licensed nursing care is defined in 22 VAC 40-72-10.
FAMILY (1)	22 VAC 40-72-340 J Recommendation that numbering be used in lieu of the use of (i).	The regulation is properly formatted.
VDSS STAFF (1)	22 VAC 40-72-340 J Recommendation not to use DCS for gastric tubes because it requires too much for unlicensed staff. What is the facility has a nurse who leaves, who monitors the DCS if another nurse is not immediately hired.	The law allows for direct care staff to do this.
VDSS STAFF (1)	22 VAC 40-72-340 J (ii)	The requirement is allowed by law.

	Recommendation to delete the provision.	
VDSS STAFF (1)	22 VAC 40-72-340 K Recommendation to delete the provision. Writing policies and procedures does not lessen the risk to the residents. The current provision in the standards should remain. This delegation may be appropriate in a private home setting, but do not agree this should be permitted in an ALF.	The law allows for direct care staff to do this
VDSS STAFF (1)	22 VAC 40-72-340 L Recommendation to insert "emergency" before what home health may provide training in for emphasis that it is just emergency situations and not routine care.	The standard is worded appropriately regarding actions to take in case of emergency.
AGENCY (6) LIC (40) PUB (7) STAFF (66)	22 VAC 40-72-350 DSS should only be concerned with physical and psychiatric assessments related to determining the care needs of individuals for whom public dollars are paying for care. Concerns that DSS licensing inspectors are not qualified to determine whether additional evaluations are needed.	DSS is mandated to provide monitoring and oversight for all vulnerable adults in facilities subject to licensure. DSS licensing inspectors are trained assessors and have access through consultation and referral to trained assessors and other qualified health care professionals. This standard is consistent with the requirements in the Code of Virginia. It has been modified for clarity.
AGENCY (52) ALF STAFF (7) LIC (21) PUB (1) VDSS STAFF(1)	22 VAC 40-72-360 A recommendation was made to revise the requirements of the mental health screening. The recommendation was based on the need to clarify which residents should have a screening based on their condition, the view that the standard goes beyond the intent of the Code, the view that the standard mixes requirements for admission and reassessment of a resident's mental status, and that the standard fails to specify how the facilities and the mental health professionals should work together and address the needs of the residents. An alternative to the proposed standard was offered which was developed from certain requirements contained in an existing standard, i.e., Mental health services coordination, support, and agreement.	VDSS revised the requirements of the mental health screening. The revised standard makes clearer that the mental health screening is not mandatory for every person who has a history of a mental health disorder or displays certain behaviors. Rather, a screening is done when there is concern for the safety of a resident or others based on the findings in the uniform assessment instrument, the facility, or a health care professional. VDSS maintains the position that a mental health screening may be required during the admission process and during residency to ensure that the risk of harm from a psychiatrically unstable resident is reduced or eliminated from inflicting harm to self or others. VDSS maintains the position that facilities must have sufficient and accurate information on prospective residents with serious mental health issues in order to determine whether they can meet any special needs related to the mental health care and supervision of the prospective residents.
ALF STAFF (1)	22 VAC 40-72-380 A Questions why the facility cannot represent the resident if there is	The facility licensee, administrator, or staff may not become the conservator or guardian of any resident unless appointed

	no family or a family refuses.	by a court.
AGENCY (5) ALF STAFF (53) ALF STAFF/ RESIDENTS (48) LICENSEE (25) PUBLIC (7)	22 VAC 40-72-380 A 20 a Recommendation to delete the requirement for documenting the description of family structure and relationships.	The description of family structure and relationships was deleted.
ALF STAFF (1)	22 VAC 40-72-390 Recommendation that the agreement should be a separate policy required with an acknowledgement added regarding the role of families and responsible parties in the medical care of residents. It needs to be known that the facility cannot respond to changes in medical care unless initiated through a doctors' order.	Additional acknowledgments may be placed in the agreement.
AGENCY (4) ALF STAFF (50) ALF STAFF/ RESIDENTS (48) LICENSEE (25) PUBLIC (7)	22 VAC 40-72-390 C Recommendation that section be deleted.	The section was deleted.
ALF AGENCY (4) ALF STAFF/ RESIDENTS (48) LICENSEE (25) PUBLIC (7) STAFF (50)	22 VAC 40-72-390 D Recommendation that the section be rewritten to read "The original agreement shall be updated annually and at such other times as the plan is revised due to changes in financial arrangements, accommodations, services, or care which the facility will provide, and signed by the licensee or administrator and the resident or his legal representative". The changes are intended to streamline the standard while still achieving the goal of the DSS.	The section was rewritten and streamlined.
ALF STAFF (14) ALF STAFF/ RESIDENTS (48) LICENSEE (15) PUBLIC (2)	22 VAC 40-72-400 Recommendation that "Acknowledgement of having received the orientation shall be signed and dated by the resident and as appropriate, his legal representative and such documentation shall be kept in the resident's record" be deleted.	It was deemed important to have written acknowledgment of this one time event.
LICENSEE (1)	Comment that they have problems with this section.	No request to modify the section.
ALF STAFF (1)	Comment that each facility must	This standard addresses orientation and

	encourage participation of family and friends in their own way and should be determined by the facility. Questions how this is to be documented, will there be a DSS form. Over regulation is costly.	specifies documentation.
VDSS STAFF (1)	22 VAC 40-72-400 B Questions whether this is stating the same thing that is in the Facility Disclosure Statement.	This differs somewhat.
AGENCY (16) ALF STAFF (4) LIC (4)	22 VAC 40-72-410 A recommendation was made to revise this standard based on the view that it does not address residents who are admitted to a medical hospital for a serious health problem. The concern was a facility would be required to accept someone back who might have medical care needs that exceed the abilities of the assisted living facility to address.	VDSS did not make changes to this standard because the acceptance back into the facility is only required when a resident temporarily detained in an inpatient facility, pursuant to §37.2-809 of the Code of Virginia, is not involuntarily committed pursuant to §37.2-814-16 of the Code of Virginia. The standard further states that if an assisted living facility allows for a resident to temporarily leave the facility with an agreement to hold a bed, the facility must have a written policy that specifies the conditions of the agreement. Therefore, other than the Code requirement, whether a facility has a "bed hold" policy is solely at the discretion of the facility, as well as the contents of that policy.
PUBLIC (1)	22 VAC 40-72-420 Comments that the 14 day minimum requirement for discharge notification is often inadequate.	This was deemed as adequate in order to protect the health, safety and welfare of the resident. The facility must notify the resident as soon as discharge planning begins.
AGENCY (1) VDSS STAFF (2)	22 VAC 40-72-420 B Recommendation to delete "As soon as the discharge of a resident is anticipated for" and insert "As soon as discharge planning begins". Insert "orally and in writing" after "Notification" and before "of the actual discharge date..." Recommendation that notification should be in writing	The language states as soon as discharge planning begins. The original notification can be oral. It was added that written notification be given at least 14 days prior to the discharge date.
AGENCY (1)	22 VAC 40-72-420 E Recommendation adds "In such instances, the assisted living facility shall arrange for relocation of the resident to a setting appropriate to ensure the safety and welfare of the resident."	There is another standard that covers assisting the resident in the discharge process.
LICENSEE (5)	22 VAC 40-72-420 E and F Questions what is the difference between the two standards. They seem repetitive and confusing.	These two requirements are different.

FAMILY (1)	22 VAC 40-72-430 A Recommendation that in the exception change one year to read six months	It was deemed that one year was appropriate to give adequate time for training, especially since the staff have already had some training.
FAMILY (1)	22 VAC 40-72-430 G Comment that there is no 22 VAC 40-72-745.	The regulations referred to in the standard are the assessment regulations, 22 VAC 40-745.
FAMILY (1)	22 VAC 40-72-430 H Recommendation to insert "complete record" of all the UAI's posted for the resident within the facility and immediately available for review by the licensing and the legal representative of the patient.	These items are addressed in other standards.
VDSS STAFF (1)	22 VAC 40-72-430 J Recommendation clarify with whom to initiate a UAI change. Who will pay for the additional assessment?	This is best handled through technical assistance.
VDSS STAFF (1)	22 VAC 40-72-430 K Recommendation to clarify to whom to appeal the outcome. The standard should specify the process. The standard should explain the status of the resident while the action is appealed.	This is best handled through technical assistance.
FAMILY (1)	22 VAC 40-72-440 Recommendation that the care plan be developed within 30 calendar days after the admission of the person to the facility based on the UAI that was developed by either an earlier location or the for the first entrance into the facility. The plan should be discussed with the legal representative and a copy of the plan and UAI should be given to the legal representative.	The standard requires that the comprehensive plan be completed within 30 days. Legal representatives may request a copy of the plan.
ALF STAFF (1)	Questions what is accomplished by the requirement of documenting on the ISP the time it takes a resident to eat.	This is not required to be in the ISP.
STAFF (1)	Comments that the current 45 days is enough time, but the standard doesn't state what "shorten" means.	The ISP must be completed within 30 days after admission.
AGENCY (4) ALF STAFF (36) ALF STAFF/ RESIDENTS (48) LICENSEE (15) PUBLIC (2)	22 VAC 40-72-440 A Recommendation to insert "qualified mental health professionals" following "...health care providers".	"Qualified mental health professionals" were inserted as requested.

ALF STAFF (12) ALF STAFF/ RESIDENTS (48) LICENSEE (15) PUBLIC (2) VDSS STAFF (1)	22 VAC 40-72-440 B Recommendation that the section be deleted as the UAI usually reflects the immediate needs of the residents.	The ISP and the UAI serve different purposes.
VDSS STAFF (1)	Recommendation to specify what is included in immediate needs.	This is best handled through technical assistance.
VDSS STAFF (1)	22 VAC 40-72-440 F Question whether the ISPs can be sent or faxed to the legal representative if the resident is unable to sign.	This is best handled through technical assistance
VDSS STAFF (1)	22 VAC 40-72-440 H Recommendation to delete the exception.	The exception provides protection for both the resident and the facility when circumstances dictate.
VDSS STAFF (1)	22 VAC 40-72-440 J Recommendation to clarify what ISP training.	This is a training matter, not a regulations matter.
VDSS STAFF (1)	22 VAC 40-72-450 A Recommendation to insert “general responsibility for the maintenance, care, oversight and supervision of the residents to assure their health, safety and well-being.	This is covered in different parts of the section.
VDSS STAFF (1)	22 VAC 40-72-450 B Recommendation to clearly define “resident-centered”.	This is best handled through technical assistance.
VDSS STAFF (1)	22 VAC 40-72-450 B 1 Recommendation to have a provision to address the residents guardians as B is not sufficient.	Legal representatives are addressed elsewhere in the regulations.
VDSS STAFF (1)	22 VAC 40-72- 450 B 2 Comment that this contradicts provisions in the program of care, disclosure and the standards regarding admitting/retaining residents whose needs can be met. B by itself states the intent.	This is one of the elements of resident-centered care.
VDSS STAFF (1)	22 VAC 40-72-450 C Recommendation to delete “and enables him to fulfill his potential.	This is one of the elements of resident-centered care.
VDSS STAFF (1)	22 VAC 40-72-450 D Recommendation that there should be more required for specialized needs than “attention”.	More is required for specialized needs elsewhere in the standards.
VDSS STAFF (1)	22 VAC 40-72-450 E 1 Recommendation that any notable changes should be reported to the responsible party and/or physician and documented.	The standards require notification under certain circumstances.
VDSS STAFF (1)	22 VAC 40-72-450 E 2 Recommendation that when	This is addressed in other requirements.

<p>VDSS STAFF (1)</p>	<p>translator, or simply refuse to accept any person with a language barrier.</p> <p>Recommendation clarification as to whether an interpreter is required especially if a person is SCI and reverts back to their native language.</p>	
<p>AGENCY (4) ALF STAFF (36) ALF STAFF/ RESIDENTS (48) LICENSEE (10) PUBLIC (5)</p>	<p>22 VAC 40-72- -450 I 1 g Recommendation that activities of daily living should be amended by inserting “when residents need only encouragement, minimal assistance or non-medical supervision with these activities” after “eating/feeding”.</p>	<p>To limit eating and feeding to when residents only need encouragement, minimal assistance or non-medical supervision would be too limiting and mean that certain residents would be unable to reside in an ALF. Training in feeding for staff who feed residents is being considered.</p>
<p>VDSS STAFF (1)</p>	<p>22 VAC 40-72-450 J Recommendation to insert “related to hygiene” after odors and define “day clothing”.</p>	<p>“Related to hygiene” was added. The question regarding day clothing is best handled through technical assistance.</p>
<p>VDSS STAFF (1)</p>	<p>22 VAC 40-72-450 L Recommendation add a provision that the resident whose UAI states they need assistance with money management can’t necessarily agree to spend money on products that may be realistically above the person’s ability to afford them.</p>	<p>This is best handled through technical assistance.</p>
<p>AGENCY (5) FAMILY (1) LIC (23) PUB (7) STAFF (51)</p>	<p>22 VAC 40-72-460 Concerns about the conditions listed as “clinically avoidable.” Change maximum notification period in D.1 from 24 hours to 8 hours.</p>	<p>In the absence of complex medical diagnoses, conditions are accepted by health care professions as generally clinically avoidable. As written, the standard sets forth the expectation that notifications will be made as soon as possible after any urgent tasks are completed.</p>
<p>DSS STAFF (1)</p>	<p>22 VAC 40-72-470 Staff shall provide documentation of training in the use of assistive devices.</p>	<p>This is an inspection issue. The facility will have to provide evidence that staff have been trained in the use of the specific devices being used by and for identified residents.</p>
<p>AGENCY (4) FAMILY (1) LIC (26) PUB (7) STAFF (51) DSS STAFF (0)</p>	<p>22 VAC 40-72-480 One licensee wanted requirements related to experience for the healthcare professional deleted A family member wanted an RN to review medications at least monthly.</p>	<p>The individual providing the required level of health care oversight must have experience in long term care in order to provide effective assessments and recommendations. Additional check and balance measures are built into other standards as facilities are not required to have RNs on staff.</p>

	The remainder offered suggestions for modifying for clarity.	Standard modified for clarity as requested.
AGENCY (52) ALF STAFF (7) LIC (21) PUB (1) VDSS STAFF(1)	22 VAC 40-72-500 The recommendation was made to use some requirements of this standard to develop an alternative to 22 VAC 40-72-360 Mental health screening.	See the comments made to 22 VAC 40-72-360 Mental health screening.
AGENCY (52) ALF STAFF(7) LIC (21) PUB (1) VDSS STAFF(1)	22 VAC 40-72-510 The recommendation was made to eliminate this standard due to the requirements being too broad, confusing, too prescriptive, difficult for facilities to implement due to lack of training, intrusive of the role of mental health providers, and limiting the freedom of choice of residents. Comments were also made with respect to this standard being too similar to the standard that was eliminated by Governor Kaine which was contained in the Budget Amendment Bill sponsored by Senator Wampler.	VDSS eliminated this standard. See comments referenced in the definition of high risk behavior.
AGENCY (1)	22 VAC 40-72-520 C Employees shall regularly encourage [INSERT];, but not require, residents to participate in activities and provide guidance and assistance as needed.	This language is addressed under standard 22 VAC 40-72-520 I.
AGENCY (50) LIC (6)	22 VAC 40-72-520 D Part D of this section should be clarified by making the following changes: Activities shall be planned under the supervision of the administrator or his designee for such purposes who shall encourage involvement of residents and employees in the planning. The concern is that the proposed language could give an unqualified or inappropriate individual the responsibility of planning activities.	Added the following language "or other qualified staff"
LICENSEE (1)	22 VAC 40-72-540 Comment that they have problems with this section.	No request for change in standard.
FAMILY (1)	22 VAC 40-72-540 B Recommendation to eliminate any restriction on visiting hours.	Visiting hours have to be reasonable, or else there might be a violation of resident rights.

LICENSEE (1)	22 VAC 40-72-550 Comment that inspectors interpretations differ.	Not an issue related to a change in standards.
FAMILY (1)	22 VAC 40-72-550 B Comment that this is not true and difficult to enforce.	Not an issue related to a change in standards.
VDSS STAFF (1)	22 VAC 40-72-550 F Recommendation that the employee's written acknowledgement be a list of with whom the rights were reviewed because some residents do not want to sign anything.	It is important that the resident acknowledge having been informed.
VDSS STAFF (1)	22 VAC 40-72-560 A Questions whether models available and who determines the adequacy of the policies. Recommendation to define "well organized".	This is best handled through technical assistance.
FAMILY (1)	22 VAC 40-72-560 B Questions about the use of "this chapter".	Terminology is correct.
FAMILY (1)	22 VAC 40-72-560 G Comments about resident's records not being available unless called to the attention of the Executive Director.	Enforcement, not regulations issue.
FAMILY (1)	22 VAC 40-72-570 Recommendation that the information contained in this section be kept in a separate folder at all times.	The facility may keep the information in a separate folder if that system works best for them.
AGENCY (6) DSS STAFF (1) FAM (1) LIC (42) PUB (8) STAFF (58)	22 VAC 40-72-580 Confusion about the intent of the changes to allow residents the freedom to eat in their rooms if facility policy and procedures allow. Concerns about requirements related to special diets with at least one facility noting that they do not accept anyone with a diet order more complex than "low fat, no added sugar or no added salt." Concerns related to requirements to monitor food and fluid intake and address unplanned weight loss.	Modified for clarity. Facilities will only be required to comply with standards specific to special diets when a resident's medical conditions require a special diet. Intent is to prevent complications including unplanned weight loss, malnutrition and other complications that may result from changes in eating patterns. The standard establishes a minimum to ensure that residents are not rushed, but it includes a service plan requirement for the estimated time needed by an individual who

<p>FAM (1) DSS STAFF (1) STAFF (1)</p>	<p>22 VAC 40-72-610 Drinks, other than water should be served with snacks. Additional snacks will cost more and will keep residents from eating their meals. Planned snacks shall be listed on the menu.</p>	<p>has eating challenges. Standard 620 addresses consideration of the preferences of residents when planning meals and snacks.</p>
<p>DSS STAFF (1) FAM (1) LIC (4)</p>	<p>22 VAC 40-72-620 Family wanted closer monitoring of special diets. Voiced concerns related to appropriate substitutions for planned menus. Licensees recommended more specificity related to the written reports of quarterly oversight of special diets. Concerns re: acceptable diet manuals.</p>	<p>Referred for training and guidance documents.</p>
<p>AGENCY (5) LIC (27) PUB (6) STAFF (63)</p>	<p>22 VAC 40-72-630 Confusion that standards required prior approval of any medication management plan and subsequent changes. Concerns related to verbiage consistent with applicable Boards of Medicine and Pharmacy regulations</p>	<p>Modified for clarification. Changes made for consistency. No substantive changes as a result.</p>
<p>AGENCY (1) FAM (1) LIC (3) PUB (1)</p>	<p>22 VAC 40-72-640 Inconsistencies in terminology relevant to Boards of Medicine, Nursing and Pharmacy. Concerns about inspection of medication management. Strengthen criteria for candidates for medication aide training.</p>	<p>Changes made for consistency. No substantive changes as a result. Referred for training follow-up. Addressed in other locations. Deferred to Department of Health Professions</p>
<p>AGENCY (1)</p>	<p>22 VAC 40-72-650 Inconsistencies in terminology relevant to Boards of Medicine, Nursing and Pharmacy.</p>	<p>Changes made for consistency. No substantive changes as a result.</p>
<p>AGENCY (6) FAM (1) LIC (24) PUB (7) STAFF (50)</p>	<p>22 VAC 40-72-660 Family wanted more direct supervision by qualified staff and DSS staff. Majority concerns that staffing for on site supervision on all shifts was cost-prohibitive.</p>	<p>Will address in inspector and provider training. Deleted the words "on site on all shifts."</p>

<p>AGENCY (5) FAM (1) LIC (5) PUB (7) STAFF (50)</p>	<p>22 VAC 40-72-670 Inconsistencies in terminology relevant to Boards of Medicine, Nursing and Pharmacy. Current guidance from Board of Pharmacy re: stat boxes.</p>	<p>Changes made for consistency in terminology. Modified standard for consistency with current Board of Pharmacy guidance re: stat boxes.</p>
<p>FAMILY (1)</p>	<p>22 VAC 40-72-680 Wanted more careful review of prescribed medication regime.</p>	<p>No change. Level of oversight requested is not consistent with assisted living environment.</p>
<p>FAMILY (1)</p>	<p>22 VAC 40-72-710 Wanted DNR posted on the door of the resident’s room.</p>	<p>Technical assistance and training will be provided as posting is not consistent with residents rights to privacy.</p>
<p>FAMILY (1)</p>	<p>22 VAC 40-72-720 Comments on frequent theft of resident items. Wants help in securing residents belongings.</p>	<p>The standard contains a requirement that the facility have a policy regarding missing possessions and that reasonable actions be taken to recover missing items and prevent futures losses.</p>
<p>VDSS STAFF (1)</p>	<p>22 VAC 40-72-720 A 1 c Recommendation to insert “unless assessed on the UAI as needing assistance with this ADL.</p>	<p>The standard does not prevent assistance.</p>
<p>VDSS STAFF (1)</p>	<p>22 VAC 40-72-720 B Recommendation insert at the beginning of the standard “The facility shall establish written policies and incorporate them as part of the resident agreement regarding having jewelry, money and other valuables in the facility”.</p>	<p>It has not been deemed necessary to include this in the agreement.</p>
<p>VDSS STAFF (1)</p>	<p>22 VAC 40-72-730 B 1 Recommendation to allow for personal preference or medical order to use other furniture for sleeping including recliners or platform type beds that may not have springs.</p>	<p>This is best considered on an individual basis through the allowable variance process.</p>
<p>VDSS STAFF (1)</p>	<p>22 VAC 40-72-730 C Recommendation that wardrobe/closet space should be in the resident’s room. This enhances the privacy and convenience for residents.</p>	<p>Wardrobe/closet space will be required to be in the resident’s bedroom for new construction and change in use and occupancy classification.</p>
<p>FAMILY (1)</p>	<p>22 VAC 40-72-760 Recommendation that residents’ white and colored clothing be treated for stains and then washed and dried separately. Any damaged clothing should be replaced at no cost to the resident.</p>	<p>This is best handled though technical assistance.</p>
<p>VDSS STAFF (1)</p>	<p>22 VAC 40-72-760 E Questions how this temperature will be measured. This will likely</p>	<p>This is an enforcement issue, not one requiring a change in the regulations.</p>

VDSS STAFF (1)	<p>require some facilities to install additional hot water heaters.</p> <p>Question how the temperature of a dryer is to be checked.</p>	
LICENSEE (1)	<p>22 VAC 40-72-770</p> <p>Comment that transportation guidelines are unclear, vague and overreaching.</p>	This is best handled through technical assistance.
PUBLIC (1)	<p>22 VAC 40-72-810</p> <p>Recommendation that it be a requirement for a facility to have a resident council.</p>	It is required that a resident council be encouraged, but residents should not be forced to have one if they don't want a council.
LICENSEE (1)	<p>Recommendation that resident councils be limited to only residents to avoid the council being skewed by uninterested parties are intimidating residents.</p>	It is up to the council to decide if membership should include others. There are requirements already in the standards that may be used if there are problems.
FAMILY (1)	<p>Comments on what the scope of councils should be, documenting meetings and identifying representation.</p>	Scope of the council and documentation is already included in the standards.
LICENSEE (1)	<p>22 VAC 40-72-810 E</p> <p>Recommendation that there are no requirements for resident councils.</p>	The requirements private focus for the council.
ALF STAFF (14) ALF STAFF/ RESIDENTS (48) LICENSEE (15) PUBLIC (2)	<p>22 VAC 40-72-810 E 2</p> <p>Recommendation to delete "Discuss the services offered by the facility" and insert "make recommendations for resolution of identified problems or concerns and improvements in services offered by the facility."</p>	Items are already covered under the purposes of the council.
AGENCY (6) ALF STAFF (48) ALF STAFF/ RESIDENTS (48) PUBLIC (3) LICENSEE (35)	<p>22 VAC 40-72-810 E 3</p> <p>Recommendation to delete section relating to the facility's policies and procedures.</p>	This section has been deleted.
PUB (1)	<p>22 VAC 40-72-820</p> <p>The proposed change adds requirements regarding pets living in the facility, if the facility allows pets to live on the premises. The purpose of the change is to ensure that pets are healthy and well-treated, do not compromise the rights, preferences, or medical needs of any resident, and do not pose a significant health or safety risk.</p>	The standard supports this observation.

DSS STAFF (1)	22 VAC 40-72-820 5 How will inspectors be able to inspect this?	Technical assistance will be provided to inspectors on the process for inspecting this standard.
DSS STAFF (1)	22 VAC 40-72-820 6 Move this point to point #1	The placement of this sub-standard is appropriate.
DSS STAFF (1)	22 VAC 40-72-820 7 How is the facility to determine this? Require that the resident provide veterinarian records? If so, include that requirement in the standard.	Added a sub-standard requiring documentation of immunizations and examinations to be maintained at the facility.
DSS STAFF (1)	22 VAC 40-72-830 Move point #2 to the first position. Have to look out for the broader wellbeing of the residents first.	The placement of this sub-standard is appropriate.
LIC (1)	Concern regarding visiting pets-- We have no way of knowing the history of visiting pets.	Pet owners will be responsible for the health of the pet, not the facility. The facility may choose to develop a policy on visiting pets that would include information regarding the history of the pet.
AGENCY (2) LIC (44) STAFF (9)	Concern is that the proposed regulation would eliminate or greatly restrict pet therapy and pet visitation programs.	The intent of the standard is not to eliminate or restrict pet visitation. The intent is to clarify that pets may be allowed to visit and to protect the rights, health and safety of both residents and pets and to ensure a positive environment for interaction between pets and residents.
AGENCY (1)	22 VAC 40-72-840 Recommendation to change term "use group" to "occupancy classification" wherever it appears.	This change was made to use and occupancy classification throughout the regulations.
AGENCY (1)	22 VAC 40-72-840 D 1 Recommendation to delete requirement because the USBC requires it.	Requirement remains as the USBC does not apply to every ALF for this item.
AGENCY (1)	22 VAC 40-72-840 D 2 Recommendation to delete requirement because the USBC requires it.	Requirement remains as the USBC does not apply to every ALF for this item.
ALF STAFF (1)	22 VAC 40-72-850 Comment that administrators take pride in their facilities and monitor the grounds and housekeeping without being monitored by the DSS.	This is an enforcement matter, rather than one relating to the regulations.
VDSS STAFF (1)	22 VAC 40-72-850 D 2 Recommendation to add "and a schedule of the cleaning shall be maintained".	A cleaning schedule for this purpose is not necessary and would be perceived as micro-management.
ALF STAFF (1)	Questions whether this section is discussing dumpsters versus trash cans.	This standard is part of the requirement for collection and legal disposal of garbage, ashes and waste material.

FAMILY (1)	22 VAC 40-72-850 E Recommendation to include mosquitoes and moths as additional vermin.	The standard refers to other vermin, as well as the specific ones noted.
AGENCY (1)	22 VAC 40-72-850 H Recommendation to delete requirement because the USBC requires it.	Requirement remains as the USBC does not apply to every ALF for this item.
AGENCY (1)	22 VAC 40-72-850 J Recommendation to delete requirement because the USBC requires it.	Requirement remains as the USBC does not apply to every ALF for this item. It is also a functional design issue.
AGENCY (1)	22 VAC 40-72-850 K Recommendation to have standard reflect the requirements of the USBC.	It was added that elevators are to be inspected in accordance with the USBC.
AGENCY (4) ALF STAFF (53) ALF STAFF/ RESIDENTS (48) LICENSEE (25) PUBLIC (7)	22 40-72-850 L Recommendation to delete section because it is overreaching and creates unnecessary paperwork.	Section was deleted.
ALF STAFF (1)	22 VAC 40-72-860 Comment that many air conditioner contractors only guarantee to cool to 20 degrees less than the outside temperature. The standard of 82 degrees may not always be realistic met.	This is best handled through technical assistance.
FAMILY (1)	A Question about what is "required window space and ceiling height".	This is found in other requirements in the standards.
AGENCY (1)	22 VAC 40-72-860 C 2 Recommendation to insert "in accordance with the USBC as approved by the building official". Insert that "operation complies with the SFPC and approved by the state or local fire official".	The building authority was added to the standard.
VDSS STAFF (1)	Recommendation to reverse the order of the standard "space or portable heaters (give types) may only be used in an emergency such as a power failure, the loss of the operation of the central of primary heating system, or a similar emergency if their installation or operation has been approved by the state or local fire authorities.	It was deemed that the wording of the standard was appropriate.
VDSS STAFF (1)	22 VAC 40-72-860 D Recommendation that temperature should not have to	The requirement was changed to require cooling when the inside temperature exceeds 80 degrees. The six years was not

	reach 82 degrees before cooling is required because that is too warm for most people especially the aged. When heat needs to be maintained at 72 why wait for 82 with air conditioning. Six years is too long to wait for air conditioning.	changed because this may be a major adjustment for some facilities.
AGENCY (1)	22 VAC 40-72-860 D 2 Recommendation to delete requirement unless there is a standard addressing means to minimize drafts.	Addressing minimizing drafts is best handled through technical assistance.
AGENCY (1)	22 VAC 40-72-860 D 6 Recommendation to use "change of occupancy classification".	This change was made to refer to use and occupancy classification.
FAMILY (1)	22 VAC 40-72-860 D 7 Recommendation to change from six to three years.	The six years was not changed because this may be a major adjustment for some facilities.
AGENCY (4) ALF STAFF (51) ALF STAFF/ RESIDENTS (48) LICENSEE (25) PUBLIC (7)	VAC 40-72-860 D 7 a Recommendation to delete "and costs and funding resources for equipment installation and operation" because there is no reason for such information to be provided to the DSS.	This was deleted as requested.
AGENCY (1)	22 VAC 40-72-870 B Recommendation to add one to 10 foot-candles for these areas.	It was deemed best to leave the standard as it is, with technical assistance to be provided as necessary.
AGENCY (1)	22 VAC 40-72-870 C Recommendation to add one to 10 foot-candles for these areas.	It was deemed best to leave the standard as it is, with technical assistance to be provided as necessary.
AGENCY (1)	VAC 40-72-870 D Recommendation to delete because USBC covers doorways, stairs and exits at one foot-candle. The standard seems too vague for uniform enforcement unless there is a technical support document.	Requirement remains as the USBC does not apply to every ALF for this item.
AGENCY (1)	22 VAC 40-72-870 E Recommendation to add one to 10 foot-candles for these areas.	It was deemed best to leave the standard as it is, with technical assistance to be provided as necessary.
AGENCY (1)	22 VAC 40-72-870 F Questions what is the standard used.	This can be answered through technical assistance.
AGENCY (1)	22 VAC 40-72-880 2 a Requirement is more restrictive than current USBC that uses 75 square feet for one person and 59 square feet per person where there are two or more persons per bedroom. There will be USBC changes in 2006 and would welcome DSS input.	The requirement is a functional design feature.
AGENCY (1)	22 VAC 40-72-880 2 b	The requirement is a functional design

	Requirement is more restrictive than current USBC that uses 75 square feet for one person and 59 square feet per person where there are two or more persons per bedroom. There will be USBC changes in 2006 and would welcome DSS input.	feature.
AGENCY (1)	22 VAC 40-72-880 3 Comments on the ceiling height of 7 ½ feet is problematic for homes where there is only a seven feet requirement. Recommendation is to delete and leave up to the USBC.	This requirement is a functional design feature.
ALF STAFF (1)	22 VAC 40-72-890 Comment that the need for separate gender bathrooms is an issue. They are use to going to the bathroom closest when in need. Bathroom usage is based on choice.	It was deemed that the standard was appropriate as it is.
FAMILY (1)	Recommendation that there should not be any live in employees per other statements in this regulation.	Some facilities have live in employees; it is up to the facility.
AGENCY (1)	22 VAC 40-72-890 A 1, 2, 3 Comment that the standard is more stringent than the USBC-International Plumbing Code for R-4 ALF 16 or less persons which is one per 10 for each sex for water closets or four for R-4 which is the same for A 1 except A 3 requires an additional toilet. The requirements for sinks and showers are more stringent for example R-4 requires two showers and the standard requires three. Wanted to only note the differences. The IPC gets input from the national healthcare industry for fixture ratios. Perhaps the ALF advisory committee might want to review the IPC fixture requirements to ascertain impact on sanitary and health issues and cost.	This requirement is a functional design feature.
VDSS STAFF (1)	22 VAC 40-72-890 D 2 Recommendation to have grab bars for toilets secured to the toilet, the floor, a wall or similar surface to avoid tip over hazard.	The standard was changed to specify that handrails and grab bars be installed in compliance with the USBC.
FAMILY (1)	22 VAC 40-72-900	The provision of cloth towels is specified

	Questions whatever happened to cloth towels for drying hands after washing.	elsewhere.
FAMILY (1)	22 VAC 40-72-910 B Recommendation that the section be changed to five in lieu of 19 in addition to keeping continual check as to where the residents are in the group home.	The standard provides adequate protection as worded.
VDSS STAFF (1)	Question whether facilities with over 20 that do not have a signaling device be grandfathered in.	There is no such clause included in the standard that would permit this.
AGENCY (34) DSS STAFF (2) LIC (31) PUB (16) STAFF (12)	22 VAC 40-72-930 Concern is having to develop the Emergency preparedness and response plan in accordance with a department approved manual. Concern regarding generators. Recommend eliminating subpart A (4) (f) regarding emergency generators. The language of A (4) (f) states: f. Operating the emergency generator, and if available on site, testing it periodically. The current Code sections do not require all facilities to own generators, only the ability to connect to a secondary power source. This standard, as written presumes all facilities have generators and thus exceeds state law.	The requirement to develop the facility Emergency Preparedness and Response Plan in accordance with a department approved manual has been deleted. Each locality has an Emergency Management Office that providers can access for assistance in developing their Emergency Preparedness and Response Plan. This will allow the plan to address specific emergency operations within each facility's geographic location. 22 VAC 40-72-960 D requires that by July 1, 2007 that each facility with six or more residents be able to connect to at temporary electrical power source. Facilities are not required to purchase their own generators. However, if they choose not to install a generator, they must have the required means to hook up to a generator in place by this date and maintain a written contract with a company that will provide an emergency generator within four hours of notification. The intent of standard 22 VAC 40-72-930 A 4 f is two-fold: 1) that someone employed by the facility will be familiar with how to operate a generator and 2) that if a generator is on-site, that there be periodic testing to insure that it is in working condition. The generator will be of no use to the facility in an emergency if either no one knows how to operate it or it no longer works.
DSS STAFF (1)	22 VAC 40-72-930 A 3 b "Coordination of logistics" means what? Coordination of resident related services with designated	Logistics refers to the functions of transport, supply, communication, medical aid, planning, administration, coordination, etc. These functions should be covered within

	community agencies and resources? The standard has to be written in terms that licensees know what is expected of them. This phrase in the standard as written does not tell them.	the written emergency management policies.
AGENCY (1) DSS STAFF (1)	22 VAC 40-72-930 A 3 g "Community outreach" means what?	"Community outreach" has been changed to "Community resource accessibility" to more accurately describe the function of identifying available community resources.
DSS STAFF (1)	22 VAC 40-72-930 A 3 h "Recovery and restoration" of what? The building? Services? Residents? Perhaps the resumption of regular services to residents and the availability of services to help residents cope with reactions to the emergency and adjust to any changed circumstances.	Returning all systems and activities to normal.
PUB (1)	22 VAC 40-72-930 A 4 h With regard to A4h: Relocations are very complicated. This needs clarification to answer the questions of how the relocation will occur, where will it occur and what are the circumstances necessary for a relocation vs. sheltering in place.	The facility will need to work with the local Emergency Management Office to determine the relocation strategy that will be most appropriate for their facility location.
AGENCY (1) PUB(1)	22 VAC 40-72-930 A 6 Requirement for quarterly testing of the emergency plan places an undue hardship on the at-risk residents plus it is costly for the facility. Annual testing would be more appropriate. "Testing" and "test" of the plan need to be defined as referenced in this section (i.e., do these terms imply full evacuation of residents from the facility, or some measure short of that? Regulatory requirements should ensure that staff are fully trained to carry out an evacuation when required.	Requirement has been deleted. Testing the implementation of the plan would be difficult. 22 VAC 40-72-930 C requires that the plan be reviewed quarterly by staff, residents and volunteers which will provide knowledge for implementing the plan.
LIC (5)	22 VAC 40-72-930 A 7 All reports and recommendations of the testing of the plan should be directed to the quality assurance committee for appropriate resolution.	The quarterly testing requirement has been deleted from the standards. The licensee or administrator is responsible for reviewing the plan and correcting any identified problems or making any necessary changes.

<p>PUB (1)</p>	<p>22 VAC 40-72-930 B Section B's requirement to include volunteers in getting trained for emergency preparedness is not feasible. The use of volunteers could increase the risk for potential post-emergency litigation and it would be very difficult to have accountability standards for the volunteers.</p>	<p>The intent of this standard is for volunteers in the facility to be knowledgeable of the emergency preparedness and response plan in the event that the plan must be activated while a volunteer is on-site.</p>
<p>DSS STAFF (1)</p>	<p>22 VAC 40-72-930 C,E,F Introduction of the term "provider". There should be a continuity of terms such as licensee or facility. Change "provider" to "licensee" or "the facility".</p>	<p>The term "provider" has been changed to "facility" in 22 VAC 40-72-930 C, D, E, and F.</p>
<p>PUB (1)</p>	<p>22 VAC 40-72-940 B & C The emergency evacuation plan listed in B and C should be simplified as it will be too confusing for many of the residents who have mental disabilities or dementia. Instead of a multitude of numbers, just direct the residents to call 911. Also, many ALFs do not have switchboards open 24 hours a day. In our case calls route through the nursing station.</p>	<p>Facility staff should be available to assist those residents in evacuating the building. In addition to residents, the fire and emergency evacuation plan is also intended for use by staff and volunteers, who are required to understand how to implement the plan.</p>
<p>AGENCY (35) LIC (54) PUB (17) STAFF (24)</p>	<p>22 VAC 40-72-950 Three major concerns have been noted with this standard: 1) The change in title from "Fire drills" to "Evacuation drills" changes the intent of the standard, requiring that all facilities perform a complete evacuation of all residents at any time of day or night at any time of year. 2) Requiring complete evacuation of the facility as referenced above in #1 would place residents at risk of harm. 3) A misperception that more fire and emergency evacuation drills were being required.</p>	<p>Standard title has been changed to refer directly to the language used in the Virginia Statewide Fire Prevention Code. Standard has been changed to reflect the requirements of the Virginia Statewide Fire Prevention Code.</p>
<p>DSS STAFF (1)</p>	<p>22 VAC 40-72-950 D Include a written evaluation of the results.</p>	<p>22 VAC 40-72-950 E accomplishes this.</p>
<p>ALF STAFF (1)</p>	<p>22 VAC 40-72-960 Recommendation that there be a</p>	<p>The standard requires a generator or an agreement with an entity that will provide</p>

ALF STAFF (1) PUBLIC (1)	variance or waiver program to allow facilities additional time to get a generator installed. Recommendation that emergency food resources be for five days. Comment that installing a generator will be costly.	one within four hours of notification. It was deemed that the requirement for 4 days was adequate. Comment that installing a generator will be costly.
ALF STAFF (1)	22 VAC 40-71-960 A The first aid kit requires charcoal and ipecac, but the pharmacy says they do more harm than good for the residents.	Charcoal and ipecac are included in the first aid kit as they are recommended by certain national organizations. They are only used if instructed by a physician or Poison Control Center.
PUBLIC (1)	22 VAC 40-72-960 D Comment that mandatory electrical power is essential. Four hours is entirely too long to wait to have the alternative available.	It was deemed that within four hours was a reasonable expectation and therefore the requirement was set for this period of time.
AGENCY (4) ALF STAFF (36) LICENSEE (10) PUBLIC (5)	22 VAC 40-72-960 D 1 a Recommendation that the section be revised to be consistent with the law. The proposed standard goes beyond the scope and intent of the law.	This requirement sets parameters for the electrical power source. This requirement was deemed to not go beyond the scope and intent of the law.
AGENCY (1)	22 VAC 40-72-960 D 1 b Recommendation that DHCD work with the DSS and the building officials to ensure uniformity in permitting for these emergency systems installed as they aren't required systems under the USBC except for very large high rise facilities.	This is not a request to change a standard.
AGENCY (4) ALF STAFF (36) LICENSEE (10) PUBLIC (5)	22 VAC 40-72-960 D 2 Recommendation that the section be deleted because it goes beyond the scope and intent of the law.	This requirement was deemed to be within the scope and intent of the law.
ALF STAFF (1) VDSS STAFF (1) VDSS STAFF (1)	22 VAC 40-72- 960 G Questions where are small facilities to store 96 hours of food and water. They already have 72 hours stored. Recommendation a reference in 620 to this requirement. Recommendation to specify how much water is required per person per day and specify that meals should meet the daily requirements.	The requirement for a 96-hour supply applies to all ALFs. If there are storage place problems, they can be considered on an individual basis. A reference was not considered necessary. These issues are best handled through technical assistance.
DSS STAFF (1)	22 VAC 40-72-970 Written plan.	The word "written" has been included.

<p>AGENCY (1)</p>	<p>22 VAC 40-72-1130 A recommendation was made to have Standard 1130.A state “that conforms to the USBC” instead of saying “building and fire codes.” Also recommended reviewing the safety features of the windows in “safe and secure environments (i.e., special care units) referenced in Standard 1030.B</p>	<p>VDSS did consult on this issue and does not agree that standards 1130 A and B need to change. The functional design feature is necessary to protect those residents who have serious cognitive impairments and cannot recognize danger and protect self from harm.</p>
<p>FAMILY (1)</p>	<p>General comments on formatting: Definition. High risk behavior- Replace the (i) through (xi) with numerical notations (1) through (11) Definition. Independent clinical psychologist-delete the term “assisted living” and replace the first “assisted living facility” with ALF. Set up a separate definition for “independent contractor” Definition. Mentally retarded-after the words skill areas, number the 10 areas listed Definition. Psychopharmacologic drug-define Food and Drug Administration (FDA)</p>	<p>The formatting of standards used by VDSS conforms to the requirements of the Virginia Registrar of Regulations.</p>
<p>LICENSEE (9) PUBLIC (4) STAFF (28)</p>	<p>General comments about concerns related to possible incurred costs with the proposed regulation.</p>	<p>Issues related to the regulation increasing costs have been taken into account during the review of specific standards.</p>
<p>FAMILY (1) LICENSEE (4) PUBLIC (1) STAFF (1)</p>	<p>General comments about concerns related to the inspection process.</p>	<p>Issues related to the inspection process have been referred to the appropriate licensing personnel.</p>
<p>FAMILY (1) VDSS STAFF(1)</p>	<p>General comments about the regulation’s format.</p>	<p>Issues related to the regulation’s format have been taken into account during the review of specific standards.</p>
<p>AGENCY (2) FAMILY (1)</p>	<p>General comments in support of strengthening the regulation.</p>	<p>Issues related to supporting the regulation have been referred to the appropriate agencies.</p>
<p>ALF STAFF/ RESIDENTS(48) PUBLIC (4) LICENSEE (31) STAFF (20)</p>	<p>General comments about the regulation turning home-like assisted living facilities into clinical nursing home environments.</p>	<p>Issues related to the regulation’s direction have been taken into account during the review of specific standards.</p>
<p>STAFF (1)</p>	<p>General comment that the regulation should focus on outcomes instead of the level of</p>	<p>Issues related to the regulation’s focus have been taken into account during the review of specific standards.</p>

	detail presented in the proposed regulation.	
ALF STAFF/ RESIDENTS(48) LICENSEE (26) PUBLIC (2) STAFF (18)	General comments about the regulation exceeding the Department of Social Services' oversight responsibility.	Issues related to the assignment of oversight responsibility have been taken into account during the review of specific standards.
STAFF (1)	General comment about the proposed regulation not respecting residents' dignity.	Issues related to residents' well being have been taken into account during the review of specific standards.
ALF STAFF/ RESIDENTS(48) LICENSEE (34) PUBLIC (4) STAFF (43)	General comments about the proposed regulation's excessiveness and infringement on residents' rights.	Issues related to residents' well being and personal rights have been taken into account during the review of specific standards.
LICENSEE (1)	General comment stating that their understanding is that the proposed regulation for assisted living facilities could prove detrimental to the residents and staffs, but has not read the entire regulation.	Issue not related to a specific standard.
AGENCY (2) STAFF (1)	General comments that the regulation be deferred for further dialogue about their adverse impact.	Issues related to delaying the approval of the regulation have been referred to the appropriate officials.
ALF STAFF/ RESIDENTS(48) LICENSEE (35) PUBLIC (6) STAFF (44)	General comments that the regulation creates a paperwork burden.	Issues related to the regulation's paperwork burden have been taken into account during the review of specific standards.
LICENSEE (3) PUBLIC (2) STAFF (2)	General comments that the Auxiliary Grant payments are not adequate to cover the costs associated with the regulation and still provide good care.	Issues related to payments from the Auxiliary Grant Program are outside the scope of this regulation; appropriate officials have been advised.
STAFF (1)	General comment that the costs associated with the implementation of the regulation have not been identified or estimated.	The promulgation process requires the agency initiating the regulation to prepare a cost analysis.
STAFF (1)	General comment about concerns related to the confidentiality of information as it relates to potential liability issues.	Issues related to potential liability issues have been taken into account during the review of specific standards.
LICENSEE (4) PUBLIC (3) STAFF (25)	General comments about the regulation creating an undue burden on assisted living facilities.	Issues related to the burden of the regulation have been taken into account during the review of specific standards.
ALF STAFF/ RESIDENTS(48) LICENSEE (34) PUBLIC (6) STAFF (42)	General comments that the regulation is more stringent than the regulations in place for nursing home facilities.	Issues related to the difference between the regulation of assisted living facilities and nursing homes have been taken into account during the review of specific standards.

LICENSEE (4) PUBLIC (2) STAFF (24)	General comments that the regulation is written to suggest that all assisted living facilities are “one size” and “fits all”.	Issues related the regulations focus have been taken into account during the review of specific standards.
LICENSEE (4) PUBLIC (2) STAFF (24)	General comments that recommend reverting back to the Standards and Regulations for Licensed Assisted Living Facilities, 22 VAC 40-71.	Issues related to the promulgation of a new regulation for assisted living facilities have been referred to the appropriate officials.
ALF STAFF/ RESIDENTS(48) LICENSEE (32) PUBLIC (4) STAFF (17)	General comments that the regulation creates an undue financial burden on the assisted living facilities and residents.	Issues related to the costs associated to the regulation have been taken into account during the review of specific standards.
ALF STAFF/ RESIDENTS(48) LICENSEE (30) PUBLIC (2) STAFF (17)	General comments that the volume of standards has increased 160% as evidenced by 66 previous pages compared to 171 proposed pages.	The format of the proposed regulation is varied based on the publication method. The 171 page publication is double spaced. Comparing the number of pages between the previous regulation and the proposed regulation is not a valid method for identifying the volume increase in standards.
ALF STAFF/ RESIDENTS(48) LICENSEE (26) PUBLIC (2) STAFF (17)	General comments that the regulation creates unnecessary risks for residents.	Issues related to resident risks have been taken into account during the review of specific standards.
ALF STAFF/ RESIDENTS(48) LICENSEE (11) PUBLIC (2) STAFF (12)	General comments that the regulation will drive the cost of assisted living up for private pay residents.	Issues related to the costs associated with the regulation have been taken into account during the review of specific standards.
PUBLIC (2)	General comments that the regulation is an attempt to micromanage assisted living facilities.	Issues related to an attempt to micromanage assisted living facilities have been taken into account during the review of specific standards.
STAFF (1)	General comment expressing concerns about the Administrative Process Act procedures.	Issues related to the regulatory process are outside of the scope of this regulation; the appropriate officials have been advised.
LICENSEE (1)	General comment from an owner of an assisted living facility expressing concerns that he cannot make money in the homes he operates.	Issues related to the costs associated with the regulation have been taken into account during the review of specific standards.
PUBLIC (2)	General comments about the regulation’s direction.	Issues related to the direction of the regulation have been taken into account during the review of specific standards.
STAFF (1)	General comment about concerns related to maintaining \$500,000 of liability insurance.	The regulation does not require an assisted living facility to have liability insurance.
STAFF (1)	General comment about concerns related to maintaining an automated external defibrillator on site.	The regulation does not require an assisted living facility to have an automated external defibrillator.
VDSS STAFF(1)	General comment that the standards which require plans,	Information has been taken into account during the review of specific standards.

	policies and procedures should include the word “written”.	
VDSS STAFF(1)	General comment that model forms and model policies should be available before the regulation goes into effect.	Request has been referred to the appropriate licensing personnel.

All changes made in this regulatory action

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail new provisions and/or all changes to existing sections.

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
22 VAC 40-71-10	22 VAC 40-72-10	This section includes definitions of words and terms used in the regulation.	The proposed change adds definitions for the following words or terms: advance directive, behavioral health authority, cardiopulmonary resuscitation, dietary supplement, good character and reputation, imminent physical threat or danger, legal representative, manager, medication aide, mentally ill, mentally retarded, outbreak, prescriber, private pay, qualified, qualified mental health professional, sanitizing, significant change, skills training, staff or staff person, and substance abuse. The proposed change also modifies definitions for the following words or terms: administer medication, administrator, independent living environment, independent living status, licensed health care professional, licensee, mental impairment, physician, psychopharmacologic drug, and resident. These definitions were added or modified to clarify existing concepts and define new concepts. Modified definition of “physician” to include doctor of osteopathic medicine for consistency with definitions in the law and regulations for the Board of Medicine; modified definition of “medication aide” for clarity; add [(s) or (ed)] definition for “prescriber” for consistency with law and regulations for the Boards of Medicine and Pharmacy; add [(s) or (ed)] definition for “dietary supplement” as this term is now used in these regulations.
22 VAC 40-71-10	22 VAC 40-72-10	Added definition of “behavioral health authority.”	The definition was required to be added because reference is made to the involvement of a behavioral health authority in responding to requests for mental health services in assisted living facilities.

22 VAC 40-71-10	22 VAC 40-72-10	"Mental impairment" means a disability that reduces an individual's ability to reason, make decisions, or engage in purposeful behavior.	The definition was revised for clarity. "Mental impairment" means a disability that reduces an individual's ability to reason <u>[logically]</u> , make <u>[appropriate]</u> decisions, or engage in purposeful behavior.
22 VAC 40-71-10	22 VAC 40-72-10	<p>"Mental illness" means a disorder of thought, mood, emotion, perception, or orientation that significantly impairs judgment, behavior, capacity to recognize reality, or ability to address basic life necessities and requires care and treatment for the health, safety, or recovery of the individual or for the safety of others.</p> <p>"Mental retardation" means a disability, originating before the age of 18 years, characterized concurrently by (i) significantly subaverage intellectual functioning as demonstrated by performance on a standardized measure of intellectual functioning, administered in conformity with accepted professional practice, that is at least two standard deviations below the mean and (ii) significant limitations in adaptive behavior as expressed in conceptual, social, and practical adaptive skills.</p>	Changed language to be consistent with 37.2-100 Code of Virginia.
22 VAC 40-71-10	22 VAC 40-72-10	"Qualified mental health professional" means a who is trained and experienced in providing psychiatric or mental health services to individuals who have a psychiatric diagnosis, including and limited to (i) a physician: a doctor of medicine or osteopathy; (ii) a psychiatrist: a doctor of medicine or	<p>The definition was revised to reduce redundancy and to ensure that individuals who may provide services in the role of a qualified mental health professional meet the qualifications contained in the definition.</p> <p>"Qualified mental health professional" means a [clinician in the health professions behavioral health professional] who is trained and experienced in providing psychiatric or mental health services to individuals who have a psychiatric diagnosis, including and limited to</p>

		<p>osteopathy, specializing in psychiatry and licensed in Virginia; (iii) a psychologist: an individual with a master's degree in psychology from a college or university accredited by an association recognized by the U.S. Secretary of Education, with at least one year of clinical experience; (iv) a social worker: an individual with at least a bachelor's degree in human services or related field (social work, psychology, psychiatric rehabilitation, sociology, counseling, vocational rehabilitation, or human services counseling) from an college or university accredited by an association recognized by the U.S. Secretary of Education, with at least one year of clinical experience providing direct services to persons with a diagnosis of mental illness; (v) a Registered Psychiatric Rehabilitation Provider (RPRP) registered with the International Association of Psychosocial Rehabilitation Services (IAPSRS); (vi) a registered nurse licensed in the Commonwealth of Virginia with at least one year of clinical experience working in a mental health treatment facility or agency; (vii) any other licensed mental health professional; or (viii) any other person deemed by the Department of Mental Health, Mental Retardation and Substance Abuse Services as having</p>	<p>(i) a physician[: a doctor of medicine or osteopathy; (ii) a psychiatrist: a doctor of medicine or osteopathy, specializing in psychiatry and] licensed in Virginia; [(iii)-(ii)] a psychologist: an individual with a master's degree in psychology from a college or university accredited by an association recognized by the U.S. Secretary of Education, with at least one year of clinical experience; [(iv) (iii)] a social worker: an individual with at least a [bachelor's master's] degree in human services or related field (social work, psychology, psychiatric rehabilitation, sociology, counseling, vocational rehabilitation, or human services counseling) from an college or university accredited by an association recognized by the U.S. Secretary of Education, with at least one year of clinical experience providing direct services to persons with a diagnosis of mental illness; [(v) (iv)] a Registered Psychiatric Rehabilitation Provider (RPRP) registered with the International Association of Psychosocial Rehabilitation Services (IAPSRS); [(vi)-(v)] a [registered nurse <u>clinical nurse specialist or psychiatric nurse practitioner</u>] licensed in the Commonwealth of Virginia with at least one year of clinical experience working in a mental health treatment facility or agency; [(vii) (vi)] any other licensed mental health professional; or (viii) any other person deemed by the Department of Mental Health, Mental Retardation and Substance Abuse Services as having qualifications equivalent to those described in this definition. [Any unlicensed person who meets the requirements contained in this definition shall either be under the supervision of a licensed mental health professional or employed by an agency or organization licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services.]</p>
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		qualifications equivalent to those described in this definition.	
22 VAC 40-71- 20	22 VAC 40-72-20		Changed standard number only.
22 VAC 40-71-30	22 VAC 40-72-20		Changed standard number only.
	22 VAC 40-72-30		The proposed change adds requirements related to dedicated hospice facilities. The purpose of this additional section is to coordinate regulations and enforcement when a place is both an assisted living facility and a dedicated hospice facility.
22 VAC 40-71-40	22 VAC 40-72-40		Changed standard number only.
22 VAC 40-71-45	22 VAC 40-71-490		Changed standard number only.
22 VAC 40-71-50	22VAC 40-72-50	This section specifies the responsibilities, qualifications, and training required for licensees.	The proposed changes to the section include: 1) adding a requirement that the licensee meet the criminal background check regulation, 2) clarifying that the licensee must exercise supervision over the facility and establish operational policies and procedures, 3) specifying that the licensee must develop and maintain an operating budget, 4) requiring the licensee to provide advance notification of voluntary closure or impending sale, with updates upon request, and 5) regarding training upon initial application for a license, adding at the discretion of the commissioner for his authority to approve applicants who meet experience criteria established by the board. The criminal background check requirement is specified in law as a result of legislation passed by the 2005 General Assembly, and it provides increased assurances regarding the background of those the Department licenses. More specification about the responsibilities of the licensee strengthens the provision and continuity of services to residents. Advance notice of closure alerts residents and their families to the necessity for relocation or to possible changes in services or rates, and also gives them time to make new arrangements, if necessary or desired. Adding at the discretion of the commissioner clarifies language.
22 VAC 40-71-60	22 VAC 40-72-190	The current requirement relates to administrator responsibilities.	The proposed changes provide for 1) appointment of a qualified acting administrator when an administrator terminates employment, 2) strengthening and clarifying administrator responsibilities, 3) at least 24 of the 40 hours being on week days during the day shift; 4) a written schedule for the administrator. The purpose of these changes is to ensure appropriate and adequate oversight of facilities. These requirements are based on a change in the law resulting from 2005 General Assembly legislation, except for strengthening

	22 VAC 40-72-200	The current requirement for administrator qualifications specifies the education and experience required for the position, providing for differences based on the level of care for which a facility is licensed.	and clarifying administrator responsibilities. The proposed changes increase educational requirements for administrators, providing for differences based on the level of care for which a facility is licensed. Provisions are made for the grandfathering of current administrators, although those who were grandfathered in the previous standards who are administrators in facilities licensed for assisted living care are required to complete a department approved course. A provision was added that administrators for the assisted living level of care be licensed when required by the Board of Long-Term Care Administrators, and that this licensure replace specific qualifications noted in the assisted living facility regulations. The intent of the changes is for administrators to have increased knowledge in order to better manage an increasingly complex operation and to ensure licensure at the appropriate time.
	22 VAC 40-72-210	Requirements on-going training needs	Training requirements have been expanded to include attending initial and refresher training on standards.
	22 VAC 40-72-230	The current requirement specifies under what conditions a person may serve as the administrator of both an assisted living facility and a nursing home.	The proposed change increases the educational and training requirements for the manager position, which is a necessary position if the administrator of both an assisted living facility and a nursing home does not provide direct management of the assisted living facility. Current managers are grandfathered. The purpose of this change is to upgrade the qualifications and training of the person who is responsible for the day to day management of the facility, in order to improve services and provide greater protection for residents.
	22 VAC 40-72-60		The proposed change adds a provision for consistent public disclosure that describes services, fees, criteria for admission, transfer and discharge, number and qualifications of staff, provision of activities, rules regarding resident conduct, and facility ownership structure. The requirement for public disclosure of specified information is based upon changes to the law made as a result of legislation passed by the 2005 General Assembly. Disclosure provides prospective residents and their families information that allows for comparison of facilities and enables them to make an informed choice.
22 VAC 40-71-70	22 VAC 40-72-170	Employee general	No changes.

	22 VAC 40-72-250	<p>qualifications.</p> <p>The current standard contains personnel and staffing requirements for those who care for residents at the assisted living level of care.</p>	<p>The proposed change requires that direct care staff who care for residents at the assisted living level of care must complete specified training within two months of employment. Another change adds graduation from an approved personal care aide training program to the training options available. The intent of these changes is to assure staff are trained as quickly as reasonably possible for improved staff performance and to offer more flexibility in training options. The proposed changes are based on a revision to the law resulting from legislation passed by the 2005 General Assembly.</p>
22 VAC 40-71-80	<p>22 VAC 40-72-180</p> <p>22 VAC 40-72-260</p>	Employee orientation and training requirements	<p>Requirements are separated into two standards. Changes include being trained in: 1)the facilities policies and procedures, 2)procedures for the handling of resident emergencies, 3)Handwashing techniques and infection control measures, 4)procedures for reporting and documenting any major incidents at the facility, and 5)the needs, preferences and routines of the residents for whom they will provide care. In facilities licensed for both residential and assisted living care, the annual training requirement increased from 12 hours to 16 hours, with at least 4 of the hours focusing on the resident who is mentally impaired. Changes have been made to enhance the orientation and training that employees receive.</p>
22 VAC 40-71-90	<p>22 VAC 40-72-270</p> <p>22 VAC 40-72-90</p>		<p>Changed standard number only.</p> <p>Adds a requirement for an infection control plan. Outlines basic elements plan must address. The purpose of this addition is to provide necessary safeguards for a vulnerable population with increasingly complex and/or debilitating diagnoses including an increasing percentage of antibiotic resistant infections.</p>
22 VAC 40-71-100	22 VAC 40-72-280	The standard currently specifies requirements regarding volunteers.	The proposed changes include additional requirements for supervision, orientation, and records of volunteers. The purpose of the changes is to ensure the safety of residents and volunteers, and to provide clearer direction to volunteers regarding their duties
22 VAC 40-71-110	22 VAC 40-72-290	The standard contains record and health requirements for staff.	The proposed change requires risk assessments for tuberculosis. The purpose of the change is to comply with the current guidelines of the Virginia Department of Health. Another proposed change is in the requirement for a criminal record report and sworn disclosure statement to eliminate the

			provision that it only applies to staff hired after July 1, 1992. This is to conform with current law and background check regulations.
22 VAC 40-71-120	22 VAC 40-72-300	Currently require 1 staff person on duty at all times with current first aid certification and 1 staff person with current CPR certification.	Adds requirements: 1) all direct care staff shall have current first aid certification; 2) larger facilities shall have additional staff with CPR certification; 3) there shall be staff with first aid and CPR certifications on duty at facility sponsored off-site events whenever there are residents who must have supervision and oversight in order to participate in these events. The purpose is to provide safeguards that will avoid delays in securing emergency assistance should a need arise.
	22 VAC 40-72-960	The current standard contains provisions for the first aid kit and for an emergency food and water supply.	The proposed changes 1) add a few required items to the first aid kit, 2) add a requirement that there be a first aid kit on facility motor vehicles that transport residents and on vehicles used for field trips, 3)add a requirement that first aid kits be checked monthly to ensure items are present and not expired, 4) add a requirement that by 07/01/07, facilities with six or more residents are able to connect to a temporary electrical power source and have either an emergency generator or access to one through agreement, 5) add a requirement that there be an alternative form of communication in addition to the telephone, 6) increase the supply of emergency food and drinking water to a 96 hour supply and add generator fuel and oxygen for residents using oxygen to supply requirements. The intent of the changes is to protect resident safety and to ensure a facility's ability to respond to an emergency situation. The proposed change regarding the emergency generator is based on revisions to the law resulting from legislation passed by the 2004 General Assembly, and 7) modified the time frames when flashlights or lanterns must be available.
	22 VAC 40-72-120		Requirements regarding legal appointment of a conservator or guardian.
22 VAC 40-71-130	22 VAC 40-72-320	General staffing requirements.	Adds requirements for a written plan that specifies the number and type of direct care staff required to meet the day-to-day, routine direct care needs and any identified special needs for the residents in care. The purpose is to ensure adequate staffing to meet the needs of the residents and provide for their safety.
22 VAC 40-71-140	22 VAC 40-72-330	Requires written method of communication of significant resident and facility specific information between staff	No substantive changes.

			<p>pursuant to § 37.2-814 through 37.2-816 of the Code of Virginia.</p> <p>B. If an assisted living facility allows for temporary movement of a resident with agreement to hold a bed, it shall develop and follow a written bed hold policy, which includes, but is not limited to, the conditions for which a bed will be held, any time frames, terms of payment, and circumstances under which the bed will no longer be held.</p>
22 VAC 40-71-160	22 VAC 40-72-420	The current standard includes requirements when a resident is discharged from an assisted living facility.	The proposed changes include additional provisions regarding notification of discharge and reduction in the maximum number of days notice a facility may require from a resident who wishes to move. The intent of the changes are to ensure proper notification of discharge and to bring time frames for resident initiated notice closer to those for facility initiated notice.
	22 VAC 40-71-160		Standard requires 1)a written job description be available for each position, 2)for staff to receive a copy of their job description and organizational chart, 3)develop and implement procedures for verifying professional credentials, 4)develop and conduct performance evaluations, and 5)include a training plan in the performance evaluation. This is a minimally acceptable best practice standard for personnel management.
22 VAC 40-71-170	22 VAC 40-72-430	The current standard includes requirements for completion of the uniform assessment instrument.	The proposed changes add a requirement that facility employees who complete the uniform assessment instrument (UAI) for private pay residents receive department approved training and that residents are advised of the right to appeal the outcome of the assessment. A provision also is added that when there is a significant change in the resident's condition, there must be a determination whether the resident's needs can continue to be met and whether continued placement in the facility is in the best interests of the resident. The purpose of the changes is to ensure that employees are well trained in completion of the UAI, that residents are aware of their right to appeal the assessment, and that the facility is able to continue to meet the residents needs.
	22 VAC 40-72-440	The current standard includes requirements for completion of the individualized service plan.	The proposed changes 1) add a requirement for staff training on the completion of the individualized service plan (ISP), 2) shorten time frames for completion of the ISP, 3) make an allowance for deviation from the plan, 4) require documentation of outcomes and progress toward reaching expected outcomes, 5) add qualified mental health professional to

			those involved in the development of the plan, when appropriate, and 6) modify requirement for signatures of those involved in developing the plan. The purpose of the changes is to improve ISPs so that the needs of residents are better addressed.
22 VAC 40-71-180	22 VAC 40-72-290 22 VAC 40-72-560	The current standard includes requirements for resident records.	The changes add requirements that records be easily located by resident name, whether hard copy or electronic material, and that there be a back-up and security system for electronic documents. In addition notification of the department's website was added. The purpose of the changes is to clarify that records can be kept in more than one place and must be easily located and to provide for back-up and security for electronic material; also to give additional information regarding availability of model forms.
22 VAC 40-71-190	22 VAC 40-72-570		Changed standard number only.
22 VAC 40-71-200	22 VAC 40-72-720	The current standard contains requirements related to a resident's personal possessions.	The change adds a requirement that a facility implement a policy regarding procedures to follow when a resident's personal possession is missing. The intent of the change is to provide assistance to a resident in recovering a missing item and to reduce future losses.
22 VAC 40-72-210	22 VAC 40-72-730	The current standard includes specifications for resident rooms.	The proposed change adds a requirement that for new construction and change in use and occupancy classification, the closet or wardrobe space has to be in the resident's room. The purpose of this change is to provide greater accessibility and increase privacy.
22 VAC 40-71-220	22 VAC 40-72-740		Changed standard number only.
	22 VAC 40-72-220		The change adds a provision for a shared administrator for smaller facilities under certain circumstances, allowing an administrator to be present for fewer than 40 hours at a given facility, without a designated assistant who meets the qualifications of an administrator. The change adds a provision for a shared administrator for smaller facilities under certain circumstances, allowing an administrator to be present for fewer than 40 hours at a given facility, without a designated assistant who meets the qualifications of an administrator. The intent of this standard is to reduce costs while maintaining adequate administrative function. The proposed standard is based on a change in the law resulting from legislation passed by the 2005 General Assembly.
22 VAC 40-71-230	22 VAC 40-72-750		Changed standard number only.

22 VAC 40-71-240	22 VAC 40-72-760		Changed standard number only.
	22 VAC 40-72-240		The proposed change provides for a designated direct care staff person to be in charge when the administrator, designated assistant, or manager is not on duty at the facility. The rationale for this change is to ensure someone is responsible for overseeing the facility at all times. The proposed standard is based on a change in the law resulting from legislation passed by the 2005 General Assembly.
22 VAC 40-71-250	22 VAC 40-72-770		Changed standard number only.
22 VAC 40-71-260	22 VAC 40-72-520	Activity and recreational requirements for facilities licensed as residential only.	Combined the requirements for facilities licensed as residential only and those licensed as assisted living. Expanded the categories of activities to be provided. Activities shall be planned under the supervision of the administrator or his designee for such purposes. Expanded that activities shall take into consideration individual differences in age, health status, sensory deficits, lifestyle, ethnicity, religious affiliation, values, experiences, needs and skills. The schedule shall now include group activities for all residents or small groups of residents and the name, type, date and hour of the activity. Substitute activities shall be noted on the schedule. If a resident requires an individual schedule of activities, that schedule shall be a part of the ISP. The facility shall also have adequate supplies and equipment for program activities. Residents shall be encouraged but not coerced to join in at his level, to include observing. There shall be enough personnel available to conduct the activity and to account for supplies/equipment at the end of the activity. The staff providing the activity shall have a general understanding of attention spans and functional levels of the residents and how to adapt the activity to them. Change is intended to enhance the quality of activities and recreational opportunities for the resident.
22 VAC 40-71-270	22 VAC 40-72-550	The current standard specifies requirements regarding resident rights.	The proposed changes add an annual review of resident rights with employees and a requirement that a facility follow up when a physician did not record a resident's inability to understand rights that is later questioned. The purpose of the changes is to remind employees about resident rights and to emphasize their importance and to stop the presumption that a resident understands his rights in the face of contrary evidence.
22 VAC 40-71-275	22 VAC 40-72-530		Changed standard number only.
22 VAC 40-71-280	22 VAC 40-72-540	The current standard specifies requirements	The proposed change adds a requirement that a facility encourage family involvement with a

		related to visiting in the facility.	resident and provide opportunities for family participation in facility activities. The intent of the change is to promote continued connectedness.
22 VAC 40-71-300	22 VAC 40-72-780		Changed standard number only.
22 VAC 40-71-310 and 22 VAC 40-71-320	22 VAC 40-72-810	The current requirements provide for a resident council, except when the majority of residents do not want one, and provide for the residents determining the duties of the council.	The proposed changes increase a facility's responsibilities for supporting a resident council, eliminate the exception regarding the council when the majority of residents do not want one, and address the purposes of the council. The intent of these changes is to strengthen the chances of having a successful resident council, which would give residents a more active role in working with management.
22 VAC 40-71-330	22 VAC 40-72-580	Current standard provides that residents eat all meals in the dining room with few exceptions.	Changes expand the resident's freedoms to dine in his room when facility policy and procedure allow. Adds a minimum time that staff must allow for a resident to complete a meal and stipulates that those with identified eating and feeding difficulties must have estimated times for completion of a meal identified on their service plan. The purpose of these changes is to reduce the risk of unplanned weight loss, malnutrition or other nutrition related complications by ensuring that residents have sufficient time to eat without being rushed.
22 VAC 40-71-340	22 VAC 40-72-590		Changed standard number only.
22 VAC 40-71-350	22 VAC 40-72-600		Changed standard number only.
	22 VAC 40-72-365		<p>In the process of revising the requirements of Standard 22 VAC 40-72-360 Mental health screening, VDSS decided to establish the requirement for a psychosocial and behavioral history as a standard independent of the mental health screening, i.e., 22 VAC 40-72-360.E. The rationale is that a facility that is considering the admission of a person who may present safety concerns to self or others may not have the results back from a mental health screening that will help the facility determine whether it can meet the safety needs of the person, e.g., supervision. If this is the case, a facility may choose to admit the person, while waiting for the results of the screening, based on gaining some insight about the person's psychosocial and behavioral functioning over recent months. The following standard is the newly formed standard from 22 VAC 40072-360:</p> <p><u>22 VAC 40-72-365. Psychosocial and Behavioral History</u></p> <p><u>A, When determining appropriateness of admission for an individual with a mental health disability, the following information shall</u></p>

			<p>be obtained by the facility:</p> <p>1. <u>If the prospective resident is referred by a state or private hospital, community services board, behavioral health authority, or long-term care facility, documentation of the individual's psychosocial and behavioral functioning shall be acquired.</u></p> <p>2. <u>If the prospective resident is coming from a private residence, information about the individual's psychosocial and behavioral functioning shall be gathered from primary sources, such as family members or friends.</u> <u>NOTE: There is no requirement for written information from primary sources.</u></p> <p><u>B. The administrator or his designee shall document that the individual's psychosocial and behavioral history were reviewed and used to help determine the appropriateness of the admission and if the person is admitted, to develop an individualized service plan.</u></p> <p><u>C. If the individual is admitted, documentation of the psychosocial and behavioral history shall be filed in the resident's record.]</u></p>
22 VAC 40-71-370	22 VAC 40-72-610	Current requirement for meals and snacks includes a snack bedtime.	Adds availability of snacks between meals. The purpose is to provide additional food for residents who may eat smaller meals due to changing appetites, medical conditions or medications and to allow for between meal snacking consistent with the homelike atmosphere facilities strive to offer.
22 VAC 40-71-380	22 VAC 40-72-620	Minimum requirements for meal planning.	Adds requirements for 1) a dietary manual; 2) quarterly oversight, of special diets, by a qualified dietitian or nutritionist; 3) availability and accessibility of drinking water. The purpose is to improve general nutrition and hydration in a population that is particularly vulnerable due to age, infirmity, medications and to ensure that those with medically necessary dietary specifications receive appropriately prepared diets as ordered by their physicians.
22 VAC 40-71-390	22 VAC 40-72-960	The current standard contains provisions for the first aid kit and for an emergency food and water supply.	The proposed changes 1) add a few required items to the first aid kit, 2) add a requirement that there be a first aid kit on facility motor vehicles that transport residents and on vehicles used for field trips, 3)add a requirement that first aid kits be checked monthly to ensure items are present and not expired, 4) add a requirement that by 07/01/07, facilities with six or more residents are able to connect to a temporary electrical power source and have either an emergency generator or

	22 VAC 40-72-670		Adds requirements that 1) medications be administered consistent with current Board of Nursing approved curriculum; 2) make it clear that pre-pouring of medication for later administration is not allowed; 3) specify when a stat-drug box can be used consistent with the Board of Pharmacy guidance.
	22 VAC 40-72-680		Provides the basic outline for the medication review and reporting. Adds clarity to the process, but no substantive changes.
	22 VAC 40-72-690		No substantive changes.
	22 VAC 40-72-400		The proposed change adds a requirement for orientation for new residents and their legal representatives. The intent of this change is to assure residents and their representatives are aware of facility routines from the beginning in order to allow a smoother transition and protect the welfare of the resident.
22 VAC 40-71-410	22 VAC 40-72-710		Changed standard number only.
22 VAC 40-71-420	22 VAC 40-72-450	The current standard includes requirements for hygiene and grooming.	The proposed changes provide for 1) resident-centered care, 2) observation of residents for changes in functioning, 3) notification requirements when residents fall or wander, 4) communication between an employee and a resident in a language the resident understands, 5) resident access to preferred personal care items when possible, and clarification of language regarding hygiene. The intent of the changes is that residents receive appropriate care and services based on their individualized needs.
	22 VAC 40-72-460 Health care services		Expands basic elements of service requirements for clarity. Adds process through which facilities may manage gastric tube feedings and care for residents who meet the criteria established in the Code of Virginia and <u>22 VAC 40-72-340 J (ii)</u> of these regulations. This addition is to provide safeguards for these most vulnerable residents and ensure that facility staff are in compliance with related Board of Nursing regulations re: delegation of duties.
22 VAC 40-71-430	22 VAC 40-72-100	The current standard provides that facilities report to the Department major incidents that have or could threaten the health, safety or welfare of residents or staff.	The proposed change adds the provision of instructions regarding documentation and reporting of incidents. The purpose of the change is to strengthen the current standard and provide greater consistency.
22 VAC 40-71-440	22 VAC 40-72-130		Changed standard number only.
22 VAC 40-71-450	22 VAC 40-72-140	Requirements regarding a	Added that monthly statement may be

		monthly statement of the residents funds	provided to a conservator or guardian, if one has been appointed.
22 VAC 40-71-460	22 VAC 40-72-150		Changed standard number only.
22 VAC 40-71-470	22 VAC 40-72-700	Assist resident every two hours. Required written plan for restraint reduction.	Changed the requirement to assist the resident in restraints as often as necessary, but not less than 10 minutes <u>every hour</u> for his safety, comfort and elimination needs. The purpose is to reduce the risk of injury or harm when the resident does not have free movement due to the application of physical restraints. Eliminated the requirement for the written plan for restraint reduction because it had proven unnecessary.
22 VAC 40-71-480	22 VAC 40-72-310	Training requirements in providing care to aggressive or restrained residents.	Added a training requirement regarding awareness of possible risks associated with restraint use and methods of reducing or eliminating such risks.
22 VAC 40-71-490	22 VAC 40-72-840	The current section includes general requirements for buildings and grounds.	The proposed change adds a requirement that facilities that allow firearms on the premises must ensure that ammunitions and firearms are stored separately and in locked locations. The purpose of the change is to protect residents and staff. Also the term use group was changed to use and occupancy classification to conform to current language in the building code.
22 VAC 40-71-500	22 VAC 40-72-850	The current standard contains requirements for the maintenance of buildings and grounds.	The proposed changes expand the examples of furnishings and equipment to be well kept and add a requirement that elevators be inspected in accordance with the building code.
22 VAC 40-71-510	22 VAC 40-72-860	The current standard contains requirements for heating, ventilation, and cooling.	The proposed changes 1) lower the inside temperature from greater than 85 to greater than 80 degrees for the use of cooling devices, 2) add a requirement that the largest common area used by residents be air conditioned six months after the effective date of the regulations, 3) add a requirement for air conditioning for new construction or change in use and occupancy classification, 4) add a requirement that as of six years after the effective date of the standards, the facility be air conditioned, and 5) add the local building authority for the approval of space heaters. The purpose of the changes is to protect the health and well-being of residents, many of whom are elderly or on medications. A fan is insufficient in this climate. Local building authority is added to conform to building provisions.
22 VAC 40-71-520	22 VAC 40-72-870		Changed standard number only.
22 VAC 40-71-530	22 VAC 40-72-880	The current standard contains requirements for resident sleeping	The proposed change decreases the allowed occupancy in a bedroom to no more than two residents for new construction or change in

		quarters, including a current requirement that allows an occupancy of up to four residents in a bedroom.	use and occupancy classification. The intent of the change is to provide greater privacy and dignity for residents.
22 VAC 40-71-540	22 VAC 40-72-890	The current standard provides requirements for toilets, sinks and bathing facilities.	The proposed changes require for new construction or change in use and occupancy classification one toilet for four residents, one sink for four residents, and one tub or shower for seven residents on floors with residents' bedrooms, with related provisions. The proposed changes also provide for an additional toilet or sink for common use on floors with resident rooms and the main living or dining area when there is new construction or change in use and occupancy classification. In addition, there is a proposed change that adds a requirement that handrails and grab bars for tubs, showers and toilets be installed in compliance with the building code. The purpose of the changes is to improve access to bathrooms for populations with uncertain continence, ensure safety, and to provide greater dignity to residents.
22 VAC 40-71-550	22 VAC 40-72-900		Changed standard number only.
22 VAC 40-71-560	22 VAC 40-72-920		Changed standard number only.
22 VAC 40-71-570	22 VAC 40-72-940	Procedures to be followed in the event of a fire.	Procedures to be followed in the event of a fire or other emergency situation.
22 VAC 40-71-580	22 VAC 40-72-950	Schedule of fire drills. Requirements necessary to complete fire drills.	Fire and emergency evacuation drill frequency and participation shall be in accordance with the current edition of the Virginia Statewide Fire Prevention Code. The drills required for each shift in a quarter shall not be conducted in the same month.
22 VAC 40-71-590	22 VAC 40-72-970	Requirements to address emergencies other than fire related.	Requirement for a written plan for resident emergencies that includes: 1. Procedures for handling medical emergencies 2. Procedures for handling mental health emergencies 3. Procedures for making pertinent medical information and history available to the rescue squad and hospital, including but not limited to information on medications and any advance directives. 4. Procedures to be followed in the event that a resident is missing 5. Procedures for notifying the resident's family, legal representative, designated contact person, any responsible social agency, and the licensing office. Requirements for practicing these procedures.
22 VAC 40-71-600	22 VAC 40-72-910	The current standard provides for signaling/call systems.	The proposed change specifies that when written logs of rounds must be kept, the period for retention of the logs is two years, rather than three months. The reason for the change is to provide consistency throughout the standards regarding record retention time

			frames.
22 VAC 40-71-610	22 VAC 40-72-790		Changed standard number only.
22 VAC 40-71-620	22 VAC 40-72-800		Changed standard number only.
22 VAC 40-71-630	22 VAC 40-72-200	The current requirement for administrator qualifications specifies the education and experience required for the position, providing for differences based on the level of care for which a facility is licensed	The proposed changes increase educational requirements for administrators, providing for differences based on the level of care for which a facility is licensed. Provisions are made for the grandfathering of current administrators, although those who were grandfathered in the previous standards who are administrators in facilities licensed for assisted living care are required to complete a department approved course. A provision was added that administrators for the assisted living level of care be licensed when required by the Board of Long-Term Care Administrators, and that this licensure replace specific qualifications noted in the assisted living facility regulations. The intent of the changes is for administrators to have increased knowledge in order to better manage an increasingly complex operation and to ensure licensure at the appropriate time.
	22 VAC 40-72-250	The current standard contains personnel and staffing requirements for those who care for residents at the assisted living level of care.	The proposed change requires that direct care staff who care for residents at the assisted living level of care must complete specified training within two months of employment. Another change adds graduation from an approved personal care aide training program to the training options available. The intent of these changes is to assure staff are trained as quickly as reasonably possible for improved staff performance and to offer more flexibility in training options. The proposed changes are based on a revision to the law resulting from legislation passed by the 2005 General Assembly.
	22 VAC 40-72-260	Requirements for direct care staff training.	Requirements for direct care staff training for both residential and assisted living facilities. Annual training requirement has increased to 16 hours.
	22 VAC 40-72-480		Expanded description of the duties of the licensed health care professional for clarity. Individual must be on-site at least every 6 months for residential level and at least every 3 months for assisted living level of care. To improve basic oversight in facilities.
22 VAC 40-71-640	22 VAC 40-72-380	The standards specified personal and social information to be maintained on a resident.	The proposed changes add information on lifetime vocation, career, or primary role and delete description of family structure and relationships.
22 VAC 40-71-650	22 VAC 40-72-470		No substantive changes in requirement for

	<p>22 VAC 40-72-520</p>	<p>Activity and recreational requirements for facilities licensed as both residential and assisted living.</p>	<p>restorative, habilitative and rehabilitative services.</p> <p>Combined the requirements for facilities licensed as residential only and those licensed as assisted living. Expanded the categories of activities to be provided. Activities shall be planned under the supervision of the administrator or his designee for such purposes. Expanded that activities shall take into consideration individual differences in age, health status, sensory deficits, lifestyle, ethnicity, religious affiliation, values, experiences, needs and skills. The schedule shall now include group activities for all residents or small groups of residents and the name, type, date and hour of the activity. Substitute activities shall be noted on the schedule. If a resident requires an individual schedule of activities, that schedule shall be a part of the ISP. The facility shall also have adequate supplies and equipment for program activities. Residents shall be encouraged but not coerced to join in at his level, to include observing. There shall be enough personnel available to conduct the activity and to account for supplies/equipment at the end of the activity. The staff providing the activity shall have a general understanding of attention spans and functional levels of the residents and how to adapt the activity to them. Change is intended to enhance the quality of activities and recreational opportunities for the resident.</p>
<p>22 VAC 40-71-660</p>	<p>22 VAC 40-72-360</p>	<p>The current standard was replaced by 22 VAC 40-72-360 and 365 to reflect a timeframe within which to determine whether a prospective resident has been observed exhibiting mental health problems of serious concerns; notification of recommended mental health services to the resident, authorized representative, and primary mental health provider; and the requirement for documentation of the psychosocial and behavioral history.</p>	<p>VDSS revised major sections of the requirements for a mental health screening to eliminate what was considered to be overly prescriptive, too inclusive, and confusing.</p> <p><u>22 VAC 40-72-360. Mental health screening.</u></p> <p><u>A. A mental health screening shall be conducted prior to admission if behaviors or patterns of behavior occurred within the previous six months that were indicative of mental illness, mental retardation, substance abuse or behavioral disorders and that caused, or continue to cause, concern for the health, safety, or welfare either of that individual or others who could be placed at risk of harm by that individual.</u></p> <p><u>EXCEPTION: If it is not possible for the screening to be conducted prior to admission, the individual may be admitted if all other</u></p>

			<p><u>admission requirements are met. The reason for the delay shall be documented and the screening shall be conducted as soon as possible.</u></p> <p><u>B. A mental health screening shall be conducted when a resident displays behaviors or patterns of behavior indicative of mental illness, mental retardation, substance abuse, or behavioral disorders that cause concern for the health, safety or welfare of either that individual or others who could be placed at risk of harm by the individual.</u></p> <p><u>C. The mental health screening shall be conducted by a qualified mental health professional having no financial interest in the assisted living facility, directly or indirectly as an owner, officer, employee, or as an independent contractor with the facility;</u></p> <p><u>D. A copy of the screening shall be filed in the resident's record.</u></p> <p><u>E. If the screening indicates a need for mental health, mental retardation, substance abuse, or behavioral disorder services for the resident, the facility shall provide:</u></p> <p><u>1. Notification of the resident's need for such services to the community services board, behavioral health authority, or other appropriate licensed provider identified by the resident or his legal representative; and</u></p> <p><u>2. Notification to the resident, authorized contact person of record, and physician of record that mental health services have been recommended for the resident.</u></p>
<p>22 VAC 40-71-670</p> <p>22 VAC 40-71-680</p> <p>22 VAC 40-71-690</p>	<p>22 VAC 40-72-500</p>	<p>The current standards, i.e., 22 VAC 40-71 670, 680 and 690, include requirements for agreements and coordination with mental health service agencies.</p>	<p>The following standard was revised to correct a mistake made in referencing the title of the community services board. Also, the revised standard now combines 22 VAC 40-71 670, 680, and 690 into one standard, and further contains a requirement for the assisting living facility to document information pertaining to the failure to secure recommended mental health services for a resident(s) and whether the facility can continue to meet the needs of the resident, including safety, if the mental health services are not immediately available:</p> <p>22 VAC 40-72-500. Mental health services coordination, support, and agreement.</p> <p>A. For each resident requiring mental health</p>

			<p>services, the services of the local community [mental health, mental retardation and substance abuse] services board, or a public or private mental health clinic, rehabilitative services agency, treatment facility or agent shall be secured as appropriate based on the resident's current evaluation.</p> <p>B. The assisted living facility shall assist the resident in obtaining the services recommended in the initial evaluation and in the progress reports.</p> <p>C. The facility shall enter into a written agreement with all providers of mental health services utilized by residents in the facility to assure that the services outlined in subsection D of this section are provided.</p> <p>1. [Providers <u>Licensed or credentialed providers</u>] of mental health services shall include the local community [mental health, mental retardation, and substance abuse] services board; public or private mental health clinic, treatment facility or agent; private psychiatrist, psychologist, therapist, or other [appropriate <u>qualified</u>] mental health professional.</p> <p>2. The facility shall maintain contact information for providers currently serving residents as a resource for other residents who may need mental health services.</p> <p>3. A copy of the agreement shall remain on file in the assisted living facility.</p> <p><u>[4. If the facility is unable to secure an agreement with the mental health services provider that comports with subsection D of this section, the facility shall document the reason for the failure and all efforts made to secure the agreement.]</u></p> <p>D. Services to be included in the agreement shall at least be the following:</p> <ol style="list-style-type: none"> 1. Diagnostic, evaluation and referral services in order to identify and meet the needs of the resident; 2. Appropriate community-based mental health, mental retardation and substance abuse services; 3. Services and support to meet emergency mental health needs of a resident; and 4. Completion of written progress reports as follows: <ol style="list-style-type: none"> a. The facility shall obtain written progress reports on each resident receiving services from the local community [mental health, mental retardation and substance abuse] services board, or a public or private mental health clinic, treatment facility or agent; private
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			<p>psychiatrist, psychologist, therapist, or other appropriate <u>qualified</u> mental health professional.</p> <p>b. The progress reports shall be obtained at least every six months until it is stated in a report that services are no longer needed.</p> <p>c. The progress reports shall contain at a minimum:</p> <p>(1) A statement that continued services are or are not needed.</p> <p>[(a) (2)] If continued services are still required, a summary of progress.</p> <p>[(b) The status of any identified high risk behavior.]</p> <p>(2 3) Recommendations, if any, for continued services and the expected therapeutic outcomes;</p> <p>(3 4) A statement that the resident's needs can continue to be met in an assisted living facility; and</p> <p>(4 5) A statement of any recommended services to be provided by the assisted living facility.</p> <p>d. Copies of the progress reports shall be filed in the resident's record.</p> <p>E. If the facility is unsuccessful in obtaining the recommended services, it must document:</p> <ol style="list-style-type: none"> 1. Whether it can continue to meet all other needs of the resident. 2. How it plans to ensure that the failure to obtain the recommended services will not compromise the health, safety, or rights of the resident and others who come in contact with the resident. 3. The offices, agencies and individuals who were contacted and explanation of outcomes. 4. Details of additional steps the facility will take to find alternative services <u>providers</u> to meet the resident's needs.
<p>22 VAC 40-71-700.B.3</p>	<p>22 VAC 40-72-1010.B</p>	<p>The current standard requires that direct care staff attend four hours of training on cognitive impairments within six months of employment.</p>	<p>VDSS accepted a recommendation to reduce the timeframe for direct care staff to receive training on cognitive impairments from six to four months.</p>
<p>22 VAC 40-71-700.C.6</p>	<p>22 VAC 40-72-1100.</p>	<p>The current standard requires 14 scheduled hours of activities each week in a safe and secure environment, i.e., special care unit.</p>	<p>VDSS accepted a recommendation to increase the number of hours of scheduled activities on the safe, secure environment from 14 to 16 hours each week.</p>

	22 VAC 40-72-820		<p>New standard regarding procedures for allowing pets to live at the facility. Facilities shall develop policies regarding the types of pets that are permitted in the assisted living facility and the conditions under which pets may be in the assisted living facility. Facility shall also maintain documentation of disclosure of pet policies in the resident's record, ensure that before being allowed to live on the premises, the animal shall have had all recommended or required immunizations and shall be certified by a licensed veterinarian to be free of diseases transmittable to humans, ensure that animals living on the assisted living facility premises have regular examinations and immunizations, appropriate for the species, by a licensed veterinarian and are restricted from central food preparation areas, ensure that common household pets, exotic pets, animals, birds, insects, reptiles, and fish are well treated and cared for in compliance with state regulations and local ordinances, ensure that any resident's rights, preferences, and medical needs are not compromised by the presence of an animal, ensure any animal living on the premises has a suitable temperament, is healthy, and otherwise poses no significant health or safety risks to residents, employees, volunteers, or visitors, and maintain documentation to include immunizations and examinations shall be maintained at the facility.</p>
	22 VAC 40-72-830		<p>New standard for allowing pets to visit a facility. Any pet or animal present at the facility shall be in good health and show no evidence of carrying any disease. The facility shall ensure that any resident's rights, preferences, and medical needs are not compromised by the presence of an animal; and ensure any animal is well-treated while visiting on the premises, has a suitable temperament and otherwise poses no significant health or safety risks to residents, employees, volunteers, or visitors.</p>
	22 VAC 40-72-930		<p>Requirements for developing and implementing a plan to address all aspects of any emergency situation, such as: 1) Documentation of contact with the local emergency coordinator to determine local disaster risks and communitywide plans to address different disasters and emergency situations, 2) Analysis of the facility's potential hazards, 3) Written emergency management policies outlining specific responsibilities during the emergency, 4) Written emergency</p>

			<p>response procedures for assessing the situation; protecting residents, employees, volunteers, visitors, equipment, medications, and vital records; and restoring services</p> <p>5) Supporting documents that would be needed in an emergency, including emergency call lists, building and site maps necessary to shut off utilities, memoranda of understanding with relocation sites, and list of major resources such as suppliers of emergency equipment, 6) Employees and volunteers shall be knowledgeable in and prepared to implement the emergency preparedness plan in the event of an emergency, 7) The facility shall develop and implement an orientation and quarterly review on the emergency preparedness and response plan for all employees, residents, and volunteers, 8) The facility shall review the emergency preparedness plan annually or more often as needed and make necessary revisions and communicate changes to all employees, residents, and volunteers, 9) In the event of a disaster, fire, emergency or any other condition that may jeopardize the health, safety and welfare of residents, the facility shall take appropriate action to protect the health, safety and welfare of the residents and take appropriate actions to remedy the conditions as soon as possible, 10) After the disaster/emergency is stabilized, the facility shall:</p> <ol style="list-style-type: none"> 1. Notify family members and legal representatives; and 2. Report the disaster/emergency to the licensing office by the next working day as specified.
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Regulatory flexibility analysis

Please describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

This new regulation is a comprehensive revision of the current regulation. Because of extensive changes and reorganization, the current regulation is being repealed and this new regulation is being promulgated. It is also a replacement for the emergency regulation, which was mandated by legislation passed by the

2005 General Assembly. The new regulation is the least intrusive and least burdensome alternative available to ensure protection of increasingly vulnerable adults residing in assisted living facilities. Regulations from several other states were examined and conditions in the assisted living industry in Virginia were carefully considered. The department consulted with providers, advocates for residents and other agency staff through various meetings and other contacts.

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

The proposed regulatory action will have a positive impact on families in that they will be more confident that their loved family members who are residents of assisted living facilities are receiving the care they need and deserve. Moreover, there could be a positive economic impact on families by averting residents' preventable accidents, illnesses, and deterioration of functioning. There could be a negative impact on family finances if facilities increase their fees because of additional requirements, but this is an unknown factor since most facilities are not operating at full occupancy.