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Exempt Action Final Regulation Agency Background Document

Agency name	State Board of Social Services
Virginia Administrative Code (VAC) citation(s)	22VAC40-72 22VAC40-73
Regulation title(s)	Standards for Licensed Assisted Living Facilities
Action title	Technical Corrections to Licensed Assisted Living Facilities
Final agency action date	October 18, 2017
Date this document prepared	October 18, 2017

When a regulatory action is exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the Virginia Administrative Process Act (APA) or an agency's basic statute, the agency is not required, however, is encouraged to provide information to the public on the Regulatory Town Hall using this form. Note: While posting this form on the Town Hall is optional, the agency must comply with requirements of the Virginia Register Act, Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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.

This exempt action incorporates the requirements for liability insurance disclosure and hospice care, which already have been promulgated based on the current ALF regulation, 22VAC40-72, into the new comprehensive ALF regulation, 22VAC40-73. 22VAC40-73 is at the final stage for publication in the Virginia Register of Regulations.

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.

On October 18, 2017, the State Board of Social Services approved the exempt action to amend the final stage of the Standards for Licensed Assisted Living Facilities, 22VAC40-73.

Family impact

Please assess the impact of this 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.

This regulatory action will not have any impact on the institution of the family and family stability.

All changes made in this regulatory action

Please list all changes that are being proposed and the consequences of the proposed changes. Describe new provisions and/or all changes to existing sections. Explain the new requirements and what they mean rather than merely quoting the proposed text of the regulation

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
22VAC40-72-10	22VAC40-73-10	Adds a definition of “Board” to mean the State Board of Social Services. This was done because the term “Board” is used in other changes made in this proposed regulatory action.	Continuation of current definition.
		Updates the reference from the Department of Mental Health, Mental Retardation and Substance Abuse Services to the Department of Behavioral Health and Developmental Services in the definitions of “Assisted living facility” and “Qualified mental health professional.”	Continuation of current definition.
		Updates the reference from the Department for the Aging to the Department for	Continuation of current definition.

		<p>the Aging and Rehabilitative Services and the reference from Article 2 (§ 2.2-711 et seq.) of Chapter 7 of Title 2.2 to Article 6 (§ 51.5-149 et seq.) of Chapter 14 of Title 51.5 of the Code of Virginia in the definition of “Conservator.”</p> <p>Updates references from mental retardation to developmental or intellectual disability in the definitions of behavioral health authority, community services board, and chemical restraint. Updates reference to public body rather than citizens’ board in the definition of community services board. Deletes definition of mental retardation and adds definition of intellectual disability to reflect current terminology.</p> <p>Changes were made to conform with VAC style, including reference to acronyms.</p>	<p>Continuation of current definition.</p> <p>Technical changes for continuation of current definitions.</p>
22VAC40-72-57	22VAC40-73-45	<p>Provides the minimum amount of liability insurance coverage established by state board for disclosure purposes, as mandated by the Code of Virginia, § 63.2-1805 A 9 and 10. The minimum amount for disclosure purposes is \$500,000 per occurrence and \$500,000 aggregate.</p>	<p>Technical changes for continuation of current regulatory requirement.</p>
22VAC40-72-60	22VAC40-73-50	<p>Adds to the disclosure statement whether or not the ALF maintains at least the minimum amount of liability insurance coverage established by state board for disclosure purposes to compensate residents or other individuals for injuries and losses from negligent acts of the facility.</p>	<p>Technical changes for continuation of current regulatory requirement.</p>
22VAC40-	22VAC40-73-	<p>Adds that, to the extent</p>	<p>Continuation of current regulatory</p>

72-340	310	allowed by federal law, an assisted living facility is not required to provide or allow hospice care if such hospice care restrictions are included in a disclosure statement signed by a resident prior to admission, as provided in the Code of Virginia, § 63.2-1806.	requirement.
22VAC40-72-390	22VAC40-73-390	Adds to the resident agreement/acknowledgment that a resident has been notified in writing of whether or not the facility maintains at least the minimum amount of liability insurance coverage established by the board for disclosure purposes. The facility must state in the notification the minimum amount of coverage established by the board. The notification must be on a department developed form. Adds liability insurance disclosure notification to the items that must be updated when there are changes.	<p>Technical changes for continuation of current regulatory requirement.</p> <p>List of items that must be updated when there are changes was replaced with need to update whenever there are changes in the agreement/acknowledgment.</p>

The necessity for disclosure in respect to the minimum liability coverage has also been added to resident rights and responsibilities in the Code at § 63.2-1808 A 20.