

VIRGINIA ADMINISTRATIVE CODE
TITLE 22. SOCIAL SERVICES
VAC AGENCY NO. 40 DEPARTMENT OF SOCIAL SERVICES
CHAPTER 71. STANDARDS AND REGULATIONS FOR LICENSED ~~ADULT CARE~~
~~RESIDENCES~~
ASSISTED LIVING FACILITIES

PART I. GENERAL PROVISIONS

22 VAC 40-71-10. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Activities of daily living (ADLs)" means bathing, dressing, toileting, transferring, bowel control, bladder control and eating/feeding. A person's degree of independence in performing these activities is a part of determining appropriate level of care and services.

"Administer medication" means to open a container of medicine or to remove the prescribed dosage and to give it to the resident for whom it is prescribed.

"Administrator" means the licensee or a person designated by the licensee who oversees the day-to-day operation of the facility, including compliance with all regulations for licensed ~~adult care residences~~ assisted living facilities.

"Ambulatory" means the condition of a resident who is physically and mentally capable of self-preservation by evacuating in response to an emergency to a refuge area as defined by the Uniform Statewide Building Code without the assistance of another person, or from the structure itself without the assistance of another person if there is no such refuge area within the structure, even if such resident may require the assistance of a wheelchair, walker, cane, prosthetic device, or a single verbal command to evacuate.

"Assisted living care" means a level of service provided by an ~~adult care residence~~ assisted living facility for adults who may have physical or mental impairments and require at least moderate assistance with the activities of daily living. Included in this level of service are individuals who are dependent in behavior pattern (i.e., abusive, aggressive,

disruptive) as documented on the uniform assessment instrument.

~~"Adult care residence~~ Assisted living facility" means any ~~place, establishment, or institution, public or private, operated or maintained~~ congregate residential setting that provides or coordinates personal and health care services, 24-hour supervision, and assistance (scheduled and unscheduled) for the maintenance or care of four or more adults who are aged, infirm or disabled and who are cared for in a primarily residential setting, except (i) a facility or portion of a facility licensed by the State Board of Health or the Department of Mental Health, Mental Retardation and Substance Abuse Services, but including any portion of such facility not so licensed; (ii) the home or residence of an individual who cares for or maintains only persons related to him by blood or marriage; ~~and~~ (iii) a facility or portion of a facility serving infirm or disabled persons between the ages of 18 and 21, or 22 if enrolled in an educational program for the handicapped pursuant to § 22.1-214 of the Code of Virginia, when such facility is licensed by the Virginia Department of Social Services as a child-caring institution under Chapter 10 (§ 63.1-195 et seq.) of Title 63.1 of the Code of Virginia, but including any portion of the facility not so licensed; ~~and~~ (iv) any housing project for seniors or the disabled that provides no more than basic coordination of care services and is funded by the U.S. Department of Housing and Urban Development, including but not limited to, U.S. Department of Housing and Urban Development Sections 8,202,221(d)(3), 221(d)(4), 231, 236 or 811 housing, by the U.S. Department of Agriculture, or by the Virginia Housing Development Authority. Included in this definition are any two or more places, establishments or institutions owned or operated by a single entity and providing maintenance or care to a combined total of four or more aged, infirm or disabled adults.

"Building" means a structure with exterior walls under one roof.

"Case management" means multiple functions designed to link clients to appropriate services. Case management may include a variety of common components such as initial screening of needs, comprehensive assessment of needs, development and implementation of a plan of care, service monitoring, and client follow-up.

"Case manager" means an employee of a public human services agency who is qualified and designated to develop and

coordinate plans of care.

"Chemical restraint" means a psychopharmacologic drug that is used for discipline or convenience and not required to treat the resident's medical symptoms, including when the drug is used in one or more of the following ways:

1. In excessive dose (including duplicate drug therapy);
2. For excessive duration;
3. Without adequate monitoring;
4. Without adequate indications for its use;
5. In the presence of adverse consequences which indicate the dose should be reduced or discontinued; and
6. In a manner that results in a decline in the resident's functional status.

"Committee" means a person who has been legally invested with the authority and charged with the duty of managing the estate or making decisions to promote the well-being of a person who has been determined by the circuit court to be totally incapable of taking care of his person or handling and managing his estate because of mental illness or mental retardation. A committee shall be appointed only if the court finds that the person's inability to care for himself or handle and manage his affairs is total.

"Continuous licensed nursing care" means around-the-clock observation, assessment, monitoring, supervision, or provision of medical treatments provided by a licensed nurse. Residents requiring continuous licensed nursing care may include:

1. Individuals who have a medical instability due to complexities created by multiple, interrelated medical conditions; or
2. Individuals with a health care condition with a high potential for medical instability.

"Department" means the Virginia Department of Social Services.

"Department's representative" means an employee of the Virginia Department of Social Services, acting as the

authorized agent in carrying out the duties specified in the Code of Virginia.

"Direct care staff" means supervisors, assistants, aides, or other employees of a facility who assist residents in their daily living activities. Examples are likely to include nursing staff, geriatric assistants and mental health workers but are not likely to include waiters, chauffeurs, and cooks.

"Discharge" means the movement of a resident out of the ~~adult care residence~~ assisted living facility.

"Emergency" means, as it applies to restraints, a situation which may require the use of a restraint where the resident's behavior is unmanageable to the degree an immediate and serious danger is presented to the health and safety of the resident or others.

"Emergency placement" means the temporary status of an individual in an ~~adult care residence~~ assisted living facility when the person's health and safety would be jeopardized by not permitting entry into the facility until the requirements for admission have been met.

"Extended license" means a license that is granted for more than one year's duration because the facility demonstrated a pattern of strong compliance with licensing standards.

"Guardian" means a person who has been legally invested with the authority and charged with the duty of taking care of the person, managing his property and protecting the rights of the person who has been declared by the circuit court to be incapacitated and incapable of administering his own affairs. The powers and duties of the guardian are defined by the court and are limited to matters within the areas where the person in need of a guardian has been determined to be incapacitated.

"Habilitative service" means activities to advance a normal sequence of motor skills, movement, and self-care abilities or to prevent unnecessary additional deformity or dysfunction.

"Health care provider" means a person, corporation, facility or institution licensed by this Commonwealth to provide health care or professional services as a physician or hospital, dentist, pharmacist, registered or licensed practical nurse, optometrist, podiatrist, chiropractor, physical therapist, physical therapy assistant, clinical psychologist, or health maintenance organization. This list

is not all inclusive.

"Household member" means any person domiciled in an ~~adult care residence~~ assisted living facility other than residents or staff.

"Human subject research" means any medical or psychological research which utilizes human subjects who may be exposed to the possibility of physical or psychological injury as a consequence of participation as subjects and which departs from the application of those established and accepted methods appropriate to meet the subject's needs but does not include (i) the conduct of biological studies exclusively utilizing tissue or fluids after their removal or withdrawal from a human subject in the course of standard medical practice, (ii) epidemiological investigations, or (iii) medical treatment of an experimental nature intended to save or prolong the life of the subject in danger of death, to prevent the subject from becoming disfigured or physically or mentally incapacitated or to improve the quality of the subject's life pursuant to § 37.1-234 of the Code of Virginia.

"Independent living environment" means one in which the resident or residents perform all activities of daily living and instrumental activities of daily living for themselves without requiring the assistance of any staff member in the ~~adult care residence~~ assisted living facility.

"Independent living status" means that the resident is assessed as capable of performing all activities of daily living and instrumental activities of daily living for himself without requiring the assistance of any staff member in the ~~adult care residence~~ assisted living facility. (If the policy of a facility dictates that medications are administered or distributed centrally without regard for the residents' capacity, this shall not be considered in determining independent status.)

"Independent physician" means a physician who is chosen by the resident of the ~~adult care residence~~ assisted living facility and who has no financial interest in the ~~adult care residence~~ assisted living facility, directly or indirectly, as an owner, officer, or employee or as an independent contractor with the ~~residence~~ facility.

"Individualized service plan" means the written description of actions to be taken by the licensee to meet the assessed needs of the resident.

"Instrumental activities of daily living (IADLs)" means meal preparation, housekeeping, laundry, and managing money. A person's degree of independence in performing these activities is a part of determining appropriate level of care and services.

"Intermittent intravenous therapy" means therapy provided by a licensed health care professional at medically predictable intervals for a limited period of time on a daily or periodic basis.

"Licensee" means any person, association, partnership or corporation to whom the license is issued.

"Licensed health care professional" means any health care professional currently licensed by the Commonwealth of Virginia to practice within the scope of his profession, such as a clinical social worker, dentist, licensed practical nurse, nurse practitioner, pharmacist, physical therapist, physician, physician assistant, psychologist, registered nurse, and speech-language pathologist.

NOTE: Responsibilities of physicians contained within this chapter may be implemented by nurse practitioners or physician assistants as assigned by the supervising physician and within the parameters of professional licensing.

"Maintenance or care" means the protection, general supervision and oversight of the physical and mental well-being of the aged, infirm or disabled individual. Assuming responsibility for the well-being of residents, either directly or through contracted agents, is considered "general supervision and oversight."

"Maximum physical assistance" means that an individual has a rating of total dependence in four or more of the seven activities of daily living as documented on the uniform assessment instrument.

NOTE: An individual who can participate in any way with performance of the activity is not considered to be totally dependent.

"Mental impairment" means a disability which reduces an individual's ability to reason or make decisions.

"Minimal assistance" means dependency in only one activity

of daily living or dependency in one or more of the instrumental activities of daily living as documented on the uniform assessment instrument.

"Moderate assistance" means dependency in two or more of the activities of daily living as documented on the uniform assessment instrument.

"Nonambulatory" means the condition of a resident who by reason of physical or mental impairment is not capable of self-preservation without the assistance of another person.

"Nonemergency" means, as it applies to restraints, circumstances which may require the use of a restraint for the purpose of providing support to a physically weakened resident.

"Payee" means an individual, other than the guardian or committee, who has been designated to receive and administer funds belonging to a resident in an adult-care-residence assisted living facility. A payee is not a guardian or committee unless so appointed by the court.

"Personal representative" means the person representing or standing in the place of the resident for the conduct of his affairs. This may include a guardian, committee, attorney-in-fact under durable power of attorney, next of kin, descendent, trustee, or other person expressly named by the resident as his agent.

"Physical impairment" means a condition of a bodily or sensory nature that reduces an individual's ability to function or to perform activities.

"Physical restraint" means any manual method or physical or mechanical device, material, or equipment attached or adjacent to the resident's body that the resident cannot remove easily, which restricts freedom of movement or access to his body.

"Psychopharmacologic drug" means any drug prescribed or administered with the intent of controlling mood, mental status or behavior. Psychopharmacologic drugs include not only the obvious drug classes, such as antipsychotic, antidepressants, and the anti-anxiety/hypnotic class, but any drug that is prescribed or administered with the intent of controlling mood, mental status, or behavior, regardless of the manner in which it is marketed by the manufacturers and regardless of labeling or other approvals by the Federal Drug

Administration (FDA).

"Public pay" means a resident of an adult care facility eligible for benefits under the Auxiliary Grants Program.

"Qualified assessor" means an entity contracting with the Department of Medical Assistance Services to perform nursing facility preadmission screening or to complete the uniform assessment instrument for a home- and community-based waiver program, including an independent physician contracting with the Department of Medical Assistance Services to complete the uniform assessment instrument for residents of ~~adult-care residences~~ assisted living facilities, or any hospital which has contracted with the Department of Medical Assistance Services to perform nursing facility preadmission screenings.

"Rehabilitative services" means activities that are ordered by a physician or other qualified health care professional which are provided by a rehabilitative therapist (physical therapist, occupational therapist or speech-language pathologist). These activities may be necessary when a resident has demonstrated a change in his capabilities and are provided to enhance or improve his level of functioning.

"Resident" means any aged, infirm, or disabled adult residing in an ~~adult-care residence~~ assisted living facility for the purpose of receiving maintenance or care.

"Residential living care" means a level of service provided by an ~~adult-care residence~~ assisted living facility for adults who may have physical or mental impairments and require only minimal assistance with the activities of daily living. Included in this level of service are individuals who are dependent in medication administration as documented on the uniform assessment instrument. This definition includes the services provided by independent living facilities that voluntarily become licensed.

"Respite care" means services provided for maintenance and care of aged, infirm or disabled adults for temporary periods of time, regularly or intermittently. Facilities offering this type of care are subject to this chapter.

"Restorative care" means activities designed to assist the resident in reaching or maintaining his level of potential. These activities are not required to be provided by a rehabilitative therapist and may include activities such as range of motion, assistance with ambulation, positioning,

assistance and instruction in the activities of daily living, psychosocial skills training, and reorientation and reality orientation.

"Safe, secure environment" means a self-contained special care unit for individuals with serious cognitive impairments due to a primary psychiatric diagnosis of dementia who cannot recognize danger or protect their own safety and welfare. Means of egress that lead to unprotected areas must be monitored or secured through devices that conform to applicable building and fire safety standards, including but not limited to, door alarms, cameras, constant staff oversight, security bracelets that are part of an alarm system, pressure pads at doorways, delayed egress mechanisms, locking devices and perimeter fence gates. There may be one or more self-contained special care units in a facility or the whole facility may be a self-contained special care unit.

NOTE: Nothing in this definition limits or contravenes the privacy protections set forth in § 63.1-182.1 of the Code of Virginia.

"Serious cognitive impairment" means severe deficit in mental capability of a chronic, enduring or long term nature that affects areas such as thought processes, problem-solving, judgment, memory, and comprehension and that interferes with such things as reality orientation, ability to care for self, ability to recognize danger to self or others, and impulse control. Such cognitive impairment is not due to acute or episodic conditions, nor conditions arising from treatable metabolic or chemical imbalances or caused by reactions to medication or toxic substances. Prior to admission to a safe, secure environment, an individual shall have been assessed by a physician as having a serious cognitive impairment, which is due to a primary psychiatric diagnosis of dementia, as set forth in 22 VAC 40-71-700 B 1.

"Skilled nursing treatment" means a service ordered by a physician which is provided by and within the scope and practice of a licensed nurse.

"Systems review" means a physical examination of the body to determine if the person is experiencing problems or distress, including cardiovascular system, respiratory system, gastrointestinal system, urinary system, endocrine system, musculoskeletal system, nervous system, sensory system and the skin.

"Transfer" means movement of a resident to a different assigned living area within the same licensed facility.

"Transfer trauma" means feelings or symptoms of stress, emotional shock or disturbance, hopelessness, or confusion resulting from the resident being moved from one residential environment to another.

"Uniform assessment instrument (UAI)" means the department designated assessment form. There is an alternate version of the form which may be used for private pay residents, i.e., those not eligible for benefits under the Auxiliary Grants Program. Social and financial information which is not relevant because of the resident's payment status is not included on the private pay version of the form.

22 VAC 40-71-20. Applicability.

A. These standards and regulations for licensed ~~adult care residences~~ assisted living facilities apply to any ~~facility~~ congregate residential setting:

1. That ~~is operated or maintained~~ provides or coordinates personal and health care services, 24-hour supervision, and assistance for the maintenance or care of four or more adults in one or more locations who are aged, infirm or disabled.

2. That assumes responsibility, either directly or through contracted agents, for the maintenance or care of four or more adults who are aged, infirm or disabled.

B. The following types of facilities are not subject to licensure as an ~~adult care residence~~ assisted living facility:

1. A facility or portion of a facility licensed by the State Board of Health or the Department of Mental Health, Mental Retardation, and Substance Abuse Services.

2. The home or residence of an individual who cares for or maintains only persons related to him by blood or marriage.

3. A facility or portion of a facility, licensed as a children's residential facility under § 63.1-~~185~~ 195 et seq. of the Code of Virginia, serving infirm or disabled persons between the ages of 18 and 21, or 22 if enrolled in an educational program for the handicapped.

4. Any housing project for seniors or the disabled that provides no more than basic coordination of care services and is funded by the U.S. Department of Housing and Urban Development, by the U.S. Department of Agriculture, or by the Virginia Housing Development Authority.

22 VAC 40-71-30. Types of facilities and scope of services.

A. An ~~adult care residence~~ assisted living facility licensed for residential living care as defined in 22 VAC 40-71-10 shall comply with Parts I through V.

B. An ~~adult care residence~~ assisted living facility licensed for assisted living care as defined in 22 VAC 40-71-10 shall comply with Parts I through VI.

NOTE: Within assisted living care there are two payment levels for recipients of an auxiliary grant: Regular assisted living and intensive assisted living as defined in regulations promulgated by the Department of Medical Assistance Services.

22 VAC 40-71-40. Program of care and program description.

A. There shall be a program of care that:

1. Meets the resident population's physical, mental, emotional, and psychosocial needs;
2. Provides protection, guidance and supervision;
3. Promotes a sense of security and self-worth;
4. Promotes the resident's involvement with appropriate community resources; and
5. Meets the objectives of the service plan.

B. Each facility shall develop a written program description which shall be available to prospective residents and the general public and which shall include the following elements:

1. A description of the characteristics of the population to be served.
2. A description of the program components and services to be provided.

C. The facility shall update the program description as the

characteristics of the residents change and shall review the description at least annually.

PART II. PERSONNEL AND STAFFING REQUIREMENTS

22 VAC 40-71-50. Licensee.

A. The licensee shall ensure compliance with all regulations for licensed ~~adult care residences~~ assisted living facilities and terms of the license issued by the department; with other relevant federal, state or local laws and regulations; and with the facility's own policies.

B. The licensee shall meet the following requirements:

1. The licensee shall give evidence of financial responsibility.

2. The licensee shall be of good character and reputation.

3. The licensee shall protect the physical and mental well-being of residents.

4. The licensee shall keep such records and make such reports as required by this chapter for licensed ~~adult care residences~~ assisted living facilities. Such records and reports may be inspected at any reasonable time in order to determine compliance with this chapter.

5. The licensee shall meet the qualifications of the administrator if he assumes those duties.

C. An ~~adult care residence~~ assisted living facility sponsored by a religious organization, a corporation or a voluntary association shall be controlled by a governing board of directors that shall fulfill the duties of the licensee.

22 VAC 40-71-60. Administrator.

A. Each ~~residence~~ facility shall have an administrator of record. This does not prohibit the administrator from serving more than one facility.

B. The administrator shall meet the following minimum qualifications and requirements:

1. The administrator shall be at least 21 years of age.
2. He shall be able to read, to write, and to understand this chapter.
3. He shall be able to perform the duties and to carry out the responsibilities required by this chapter.
4. The administrator shall be a high school graduate or shall have a General Education Development Certificate (GED), and have completed at least one year of successful post secondary education from an accredited college or institution or administrative or supervisory experience in caring for adults in a group care facility. The following exception applies: Administrators employed prior to the effective date of these standards shall be a high school graduate or shall have a GED, or shall have completed one year of successful experience in caring for adults in a group care facility.
5. Any person meeting the qualifications for a licensed nursing home administrator under § 54.1-3103 of the Code of Virginia may (i) serve as an administrator of an assisted living facility and (ii) serve as the administrator of both an assisted living facility and a licensed nursing home, provided the assisted living facility and licensed nursing home are part of the same building.
- ~~5.~~ 6. The administrator shall demonstrate basic respect for the dignity of residents by ensuring compliance with residents' rights.
- ~~6.~~ 7. He shall meet the requirements stipulated for all staff in subsection A of 22 VAC 40-71-70.
- ~~7.~~ 8. He shall not be a resident.

C. The ~~residence~~ facility licensee/operator, ~~residence~~ facility administrator, relatives of the licensee/operator or administrator, or ~~residence~~ facility employees shall not act as, seek to become, or become the committee or guardian of any resident unless specifically so appointed by a court of competent jurisdiction pursuant to Chapter 4 (§ 37.1-128.01 et seq.) of Title 37.1 of the Code of Virginia.

D. Facility owners shall notify the licensing agency of a change in a facility's administrator. The notifications shall be sent to the licensing agency in writing within 10 working

days of the change.

E. It shall be the duty of the administrator to oversee the day-to-day operation of the ~~residence~~ facility. This shall include, but shall not be limited to, responsibility for:

1. Services to residents;

2. Maintenance of buildings and grounds;

3. Supervision of ~~adult care residence~~ assisted living facility staff.

F. Either the administrator or a designated assistant who meets the qualifications of the administrator shall be awake and on duty on the premises at least 40 hours per week.

G. When an administrator terminates employment, a new administrator shall be hired within 90 days from the date of termination.

H. The administrator shall attend at least 20 hours of training related to management or operation of a residential facility for adults or client specific training needs within each 12-month period. When adults with mental impairments reside in the facility, at least five of the required 20 hours of training shall focus on the resident who is mentally impaired. Documentation of attendance shall be retained at the facility and shall include title of course, location, date and number of hours.

I. Whenever an assisted living facility and a licensed nursing home have a single administrator, there shall be a written management plan that addresses the care and supervision of the assisted living facility residents. The management plan shall include, but not be limited to, the following:

1. Written policies and procedures that describe how the administrator will oversee the care and supervision of the residents and the day-to-day operation of the facility;

2. If the administrator does not provide the direct management of the assisted living facility, the plan shall specify a designated individual who shall serve as manager and who shall be directly supervised by the administrator;

3. A current organizational chart that depicts the lines of responsibility;
4. A position description for the administrator, and if applicable, for the manager.

22 VAC 40-71-70. Personnel qualifications.

A. All staff members including the administrator, shall:

1. Be of good character;
2. Be physically and mentally capable of carrying out assigned responsibilities;
3. Be considerate and tolerant of aged and disabled persons;
4. Be clean and well-groomed;
5. Meet the requirements specified in the Regulation for Criminal Record Checks for Homes for Adults and Adult Day Care Centers (22 VAC 40-90-10 et seq.).

B. All staff shall be able to communicate in English effectively both orally and in writing as applicable to their job responsibilities.

C. All direct care staff shall be at least 18 years of age unless certified as a nurse aide.

D. Direct care staff who are responsible for caring for residents with special health care needs shall only provide services within the scope of their practice and training.

22 VAC 40-71-80. Staff training and orientation.

A. All employees shall be made aware of:

1. The purpose of the facility;
2. The services provided;
3. The daily routines; and
4. Required compliance with regulations for ~~adult-care residences~~ assisted living facilities as it relates to their duties and responsibilities.

B. All personnel shall be trained in the relevant laws, regulations, and the ~~residence's~~ facility's policies and procedures sufficiently to implement the following:

1. Emergency and disaster plans for the facility;
2. Techniques of complying with emergency and disaster plans including evacuating residents when applicable;
3. Use of the first aid kit and knowledge of its location;
4. Confidential treatment of personal information;
5. Observance of the rights and responsibilities of residents;
6. Procedures for detecting and reporting suspected abuse, neglect, or exploitation of residents to the appropriate local department of social services. (NOTE: Section 63.1-55.3 of the Code of Virginia requires anyone providing full- or part-time care to adults for pay on a regular basis to report suspected adult abuse, neglect, or exploitation);
7. Techniques for assisting residents in overcoming transfer trauma; and
8. Specific duties and requirements of their positions. Training in these areas shall occur within the first seven days of employment, and prior to assuming job responsibilities unless under the sight supervision of a trained staff person.

C. Within the first 30 days of employment, all direct care staff shall be trained to have general knowledge in the care of aged, infirm or disabled adults with due consideration for their individual capabilities and their needs.

D. On an annual basis, all direct care staff shall attend at least eight hours of training.

1. The training shall be relevant to the population in care and shall be provided through in-service training programs or institutes, workshops, classes, or conferences.
2. When adults with mental impairments reside in the facility, at least two of the required eight hours of

training shall focus on the resident who is mentally impaired.

3. Documentation of this training shall be kept by the facility in a manner that allows for identification by individual employee.

22 VAC 40-71-90. Staff duties performed by residents.

A. Any resident who performs any staff duties shall meet the personnel and health requirements for that position.

B. There shall be a written agreement between the ~~residence~~ facility and any resident who performs staff duties.

1. The agreement shall specify duties, hours of work, and compensation.

2. The agreement shall not be a condition for admission or continued residence.

3. The resident shall enter into such an agreement voluntarily.

22 VAC 40-71-100. Volunteers.

A. Any volunteers used shall:

1. Have qualifications appropriate to the services they render; and

2. Be subject to laws and regulations governing confidential treatment of personal information.

B. Duties and responsibilities of all volunteers shall be clearly differentiated from those of persons regularly filling staff positions.

C. At least one staff member shall be assigned responsibility for overall selection, supervision and orientation of volunteers.

22 VAC 40-71-110. Employee records and health requirements.

A. A record shall be established for each staff member. It shall not be destroyed until two years after employment is terminated.

B. Personal and social data to be maintained on employees are as follows:

1. Name;
2. Birthdate;
3. Current address and telephone number;
4. Position and date employed;
5. Last previous employment;
6. For persons employed after November 9, 1975, copies of at least two references or notations of verbal references, obtained prior to employment, reflecting the date of the reference, the source and the content;
7. For persons employed after July 1, 1992, an original criminal record report and a sworn disclosure statement;
8. Previous experience or training or both;
9. Social security number;
10. Name and telephone number of person to contact in an emergency;
11. Notations of formal training received following employment; and
12. Date and reason for termination of employment.

C. Health information required by these standards shall be maintained at the facility for the licensee or administrator or both, each staff member, and each household member who comes in contact with residents.

1. Initial tuberculosis examination and report.
 - a. Within 30 days before or seven days after employment, each individual shall obtain an evaluation indicating the absence of tuberculosis in a communicable form.
 - b. When a staff person terminates work at a licensed facility and begins working at another licensed facility with a gap in service of six months or less, the previous statement of tuberculosis screening may be

transferred to the second facility.

c. Each individual shall submit documentation that he is free of tuberculosis in a communicable form. This information shall include the results of a Mantoux tuberculin skin test, chest x-ray or bacteriological examination as deemed appropriate by a physician to rule out tuberculosis in a communicable form. This documentation shall be maintained at the facility and shall include the information contained on the form recommended by the Virginia Department of Health.

2. Subsequent evaluations.

a. Any individual who comes in contact with a known case of infectious tuberculosis shall be screened as deemed appropriate in consultation with the local health department.

b. Any individual who develops respiratory symptoms of three or more weeks duration shall be evaluated immediately for the presence of infectious tuberculosis.

c. Any individual not previously reacting significantly to a Mantoux tuberculin skin test shall be retested annually. Annual chest x-rays are not required.

3. Any individual suspected to have infectious tuberculosis shall not be allowed to return to work or have any contact with the residents and personnel of the ~~residence~~ facility until tuberculosis is ruled out or determined by a physician to be noninfectious.

4. If a staff member develops an active case of tuberculosis the facility shall report this information to the local health department.

D. At the request of the administrator of the facility or the department, a report of examination by a licensed physician shall be obtained when there are indications that the safety of residents in care may be jeopardized by the physical or mental health of a specific individual.

E. Any individual who, upon examination or as a result of tests, shows indication of a physical or mental condition which may jeopardize the safety of residents in care or which would prevent performance of duties:

1. Shall be removed immediately from contact with residents;
and

2. Shall not be allowed contact with residents until the condition is cleared to the satisfaction of the examining physician as evidenced by a signed statement from the physician.

22 VAC 40-71-120. First aid qualifications and supplies.

A. There shall be at least one staff member on the premises at all times who shall have a current first aid certificate which has been issued within the past three years by the Red Cross, a community college, a hospital, a volunteer rescue squad, a fire department, or a similarly approved program, unless the facility has an on duty registered nurse or licensed practical nurse.

B. There shall be at least one staff member on the premises at all times who has certification in cardiovascular pulmonary resuscitation (CPR) issued within the current year by the Red Cross, a community college, a hospital, a volunteer rescue squad, a fire department, or a similarly approved program. The CPR certificate must be approved annually.

C. A complete first aid kit shall be on hand at the facility, located in a designated place that is easily accessible. The kit shall include, but not be limited to, the following items:

Activated charcoal, adhesive tape, antiseptic ointment, band-aids (assorted sizes), blankets (disposable or other), cold pack, disposable gloves, gauze pads and roller gauze (assorted sizes), hand cleaner (e.g., antiseptic towelettes), plastic bags, scissors, small flashlight and extra batteries, syrup of ipecac, triangular bandage, and tweezers.

22 VAC 40-71-130. Standards for staffing.

A. The ~~adult-care-residence~~ assisted living facility shall have staff adequate in knowledge, skills, and abilities and sufficient in numbers to provide services to attain and maintain the physical, mental and psychosocial well-being of each resident as determined by resident assessments and individualized service plans, and to assure compliance with this chapter.

B. There shall be sufficient staff on the premises at all

times to implement the approved fire plan.

C. There shall be at least one staff member awake and on duty at all times in each building when at least one resident is present.

EXCEPTION: In buildings that house 19 or fewer residents, the staff member on duty does not have to be awake during the night if none of the residents requires a staff member awake and on duty at night.

22 VAC 40-71-140. Communication among staff.

A method of written communication shall be utilized as a means of keeping staff on all shifts informed of significant happenings or problems experienced by residents, including physical and mental complaints or injuries.

PART III. ADMISSION, RETENTION AND DISCHARGE OF RESIDENTS

22 VAC 40-71-150. Admission and retention of residents.

A. No resident shall be admitted or retained for whom the facility cannot provide or secure appropriate care, or who requires a level of service or type of service for which the facility is not licensed or which the facility does not provide, or if the facility does not have the staff appropriate in numbers and with appropriate skill to provide such services.

B. ~~Adult care residences~~ Assisted living facilities shall not admit an individual before a determination has been made that the facility can meet the needs of the resident. The facility shall make the determination based upon:

1. The completed UAI;
2. The physical examination report; and
3. An interview between the administrator or a designee responsible for admission and retention decisions, the resident and his personal representative, if any.

NOTE: In some cases, medical conditions may create special circumstances which make it necessary to hold the interview on the date of admission.

C. Upon receiving the UAI prior to admission of a resident, the ~~adult care residence~~ assisted living facility administrator shall provide written assurance to the resident that the facility has the appropriate license to meet his care needs at the time of admission. Copies of the written assurance shall be given to the personal representative, if any, and case manager, if any, and shall be kept on file at the facility.

D. All residents shall be 18 years of age or older.

E. No person shall be admitted without his consent and agreement, or that of his personal representative, if applicable.

F. ~~Adult care residences~~ Assisted living facilities shall not admit or retain individuals with any of the following conditions or care needs:

1. Ventilator dependency;

2. Dermal ulcers III and IV except those stage III ulcers which are determined by an independent physician to be healing, as permitted in subsection G of this section;

3. Intravenous therapy or injections directly into the vein, except for intermittent intravenous therapy managed by a health care professional licensed in Virginia as permitted in subsection H or subsection I of this section;

4. Airborne infectious disease in a communicable state that requires isolation of the individual or requires special precautions by the caretaker to prevent transmission of the disease, including diseases such as tuberculosis and excluding infections such as the common cold;

5. Psychotropic medications without appropriate diagnosis and treatment plans;

6. Nasogastric tubes;

7. Gastric tubes except when the individual is capable of independently feeding himself and caring for the tube or as permitted in subsection I of this section;

8. Individuals presenting an imminent physical threat or danger to self or others;

9. Individuals requiring continuous licensed nursing care;

10. Individuals whose physician certifies that placement is no longer appropriate;

11. Unless the individual's independent physician determines otherwise, individuals who require maximum physical assistance as documented by the UAI and meet Medicaid nursing facility level of care criteria as defined in the State Plan for Medical Assistance (12 VAC 30-10-10 et seq.);

12. Individuals whose health care needs cannot be met in the specific ~~adult care residence~~ assisted living facility as determined by the ~~residence~~ facility.

G. When a resident has a stage III dermal ulcer that has been determined by an independent physician to be healing, periodic observation and any necessary dressing changes shall be performed by a licensed health care professional under a physician's treatment plan.

H. Intermittent intravenous therapy may be provided to a resident for a limited period of time on a daily or periodic basis by a licensed health care professional under a physician's treatment plan. When a course of treatment is expected to be ongoing and extends beyond a two-week period, evaluation is required at two-week intervals by the licensed health care professional.

I. At the request of the resident, care for the conditions or care needs specified in subdivisions F 3 and F 7 of this section may be provided to a resident in an ~~adult care residence~~ assisted living facility by a physician licensed in Virginia, a nurse licensed in Virginia under a physician's treatment plan or by a home care organization licensed in Virginia when the resident's independent physician determines that such care is appropriate for the resident. This standard does not apply to recipients of auxiliary grants.

J. When care for a resident's special medical needs is provided by licensed staff of a home care agency, the ~~adult care residence~~ assisted living facility staff may receive training from the home care agency staff in appropriate treatment monitoring techniques regarding safety precautions and actions to take in case of emergency.

K. Notwithstanding § 63.1-174.001 of the Code of Virginia, at the request of the resident, hospice care may be provided in an ~~adult care residence~~ assisted living facility under the same requirements for hospice programs provided in Article 7 (§ 32.1-162.1 et. seq.) of Chapter 5 of Title 32.1 of the Code of Virginia, if the hospice program determines that such program is appropriate for the resident.

L. A person shall have a physical examination by an independent physician, including screening for tuberculosis, within 30 days prior to the date of admission. The report of such examination shall be on file at the ~~adult care residence~~ assisted living facility and shall contain the following:

1. The date of the physical examination;
2. Height, weight, and blood pressure;
3. Significant medical history;
4. General physical condition, including a systems review as is medically indicated;
5. Any diagnosis or significant problems;
6. Any allergies;
7. Any recommendations for care including medication, diet and therapy;
8. The type or types of tests for tuberculosis used and the results. This information shall include the results of a Mantoux tuberculin skin test, chest x-ray or bacteriological examination as deemed appropriate by a physician to rule out tuberculosis in a communicable form. Documentation is required which includes the information contained on the form recommended by the Virginia Department of Health;
9. A statement that the individual does not have any of the conditions or care needs prohibited by subsection F of this section;
10. A statement that specifies whether the individual is considered to be ambulatory or nonambulatory; and
11. Each report shall be signed by the examining clinician.

NOTE: See 22 VAC 40-71-10, definition of "licensed health care professional" for clarification regarding "physician."

M. When a person is accepted for respite care or on an intermittent basis, the physical examination report shall be valid for six months.

N. Subsequent tuberculosis evaluations.

1. Any resident who comes in contact with a known case of infectious tuberculosis shall be screened as deemed appropriate in consultation with the local health department.

2. Any resident who develops respiratory symptoms of three or more weeks duration shall be evaluated immediately for the presence of infectious tuberculosis.

3. If a resident develops an active case of tuberculosis, the facility shall report this information to the local health department.

O. The department, at any time, may request a report of a current psychiatric or physical examination, giving the diagnoses or evaluation or both, for the purpose of determining whether the resident's needs may continue to be met in an ~~adult care residence~~ assisted living facility. When requested, this report shall be in the form specified by the department.

P. An ~~adult care residence~~ assisted living facility shall only admit or retain residents as permitted by its use group classification and certificate of occupancy. The ambulatory/nonambulatory status of an individual is based upon:

1. Information contained in the physical examination report; and

2. Information contained in the most recent UAI.

Q. An emergency placement shall occur only when the emergency is documented and approved by a Virginia adult protective services worker or case manager for public pay individuals or an independent physician or a Virginia adult protective services worker for private pay individuals.

R. When an emergency placement occurs, the person shall remain

in the ~~adult care residence~~ assisted living facility no longer than seven working days, unless all the requirements for admission have been met and the person has been admitted.

S. Prior to or at the time of admission to an ~~adult care residence~~ assisted living facility, the following personal and social data on a person shall be maintained in the individual's record:

1. Name;
2. Last home address, and address from which resident was received, if different;
3. Date of admission;
4. Social security number;
5. Birthdate (If unknown, estimated age);
6. Birthplace, if known;
7. Marital status, if known;
8. Name, address and telephone number of personal representative, or other person responsible;
9. Name, address and telephone number of next of kin, if known (two preferred);
10. Name, address and telephone number of personal physician, if known;
11. Name, address and telephone number of personal dentist, if known;
12. Name, address and telephone number of clergyman and place of worship, if applicable;
13. Name, address and telephone number of local department of social services or any other agency, if applicable, and the name of the case manager or caseworker;
14. Service in the Armed Forces, if applicable;
15. Special interests and hobbies; and
16. Information concerning advance directives, if

applicable.

NOTE: For assisted living care facilities, 22 VAC 40-71-640 also applies.

T. At or prior to the time of admission, there shall be a written agreement/acknowledgment of notification dated and signed by the resident/applicant for admission or the appropriate personal representative, and by the licensee or administrator. This document shall include the following:

1. Financial arrangement for accommodations, services and care which specifies:

a. Listing of specific charges for accommodations, services, and care to be made to the individual resident signing the agreement, the frequency of payment, and any rules relating to nonpayment;

b. Description of all accommodations, services, and care which the facility offers and any related charges;

c. The amount and purpose of an advance payment or deposit payment and the refund policy for such payment;

d. The policy with respect to increases in charges and length of time for advance notice of intent to increase charges;

e. If the ownership of any personal property, real estate, money or financial investments is to be transferred to the ~~residence~~ facility at the time of admission or at some future date, it shall be stipulated in the agreement; and

f. The refund policy to apply when transfer of ownership, closing of facility, or resident transfer or discharge occurs.

2. Requirements or rules to be imposed regarding resident conduct and other restrictions or special conditions and signed acknowledgment that they have been reviewed by the resident or his appropriate personal representative.

3. Acknowledgment that the resident has been informed of the policy regarding the amount of notice required when a resident wishes to move from the facility.

4. Acknowledgment that the resident has been informed of the policy required by 22 VAC 40-71-490 I regarding weapons.

5. Those actions, circumstances, or conditions which would result or might result in the resident's discharge from the facility.

6. Acknowledgment that the resident has reviewed a copy of § 63.1-182.1 of the Code of Virginia, Rights and Responsibilities of Residents of ~~Adult-Care-Residences~~ Assisted Living Facilities, and that the provisions of this statute have been explained to him.

7. Acknowledgment that the resident or his personal representative has reviewed and had explained to him the ~~residence's~~ facility's policies and procedures for implementing § 63.1-182.1 of the Code of Virginia, including the grievance policy and the transfer/discharge policy.

8. Acknowledgment that the resident has been informed of the bed hold policy in case of temporary transfer, if the facility has such a policy.

U. Copies of the signed agreement/acknowledgment of notification shall be provided to the resident and any personal representative and shall be retained in the resident's record.

V. A new agreement shall be signed or the original agreement shall be updated and signed by the licensee or administrator when there are changes in financial arrangements, services, or requirements governing the resident's conduct. If the original agreement provides for specific changes in financial arrangements, services, or requirements, this standard does not apply.

W. An ~~adult-care-residence~~ assisted living facility shall establish a 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 ~~adult-care-residence~~ assisted living facility if the resident is not involuntarily committed pursuant to § 37.1-67.3 of the Code of Virginia.

X. If an ~~adult-care-residence~~ 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.

22 VAC 40-71-160. Discharge of residents.

A. When actions, circumstances, conditions, or care needs occur which will result in the discharge of a resident, discharge planning shall begin immediately. The resident shall be moved within 30 days, except that if persistent efforts have been made and the time frame is not met, the facility shall document the reason and the efforts that have been made.

B. The ~~adult care residence~~ assisted living facility shall immediately notify the resident and the resident's personal representative, if any, of the planned discharge. The notification shall occur at least 14 calendar days prior to the actual discharge date. The reason for the move shall be discussed with the resident and his personal representative at the time of notification.

C. The ~~adult care residence~~ assisted living facility shall adopt and conform to a written policy regarding the number of calendar days notice that is required when a resident wishes to move from the facility. Any required notice of intent to move shall not exceed 45 days.

D. The facility shall assist the resident and his personal representative, if any, in the discharge or transfer processes. The facility shall help the resident prepare for relocation, including discussing the resident's destination. Primary responsibility for transporting the resident and his possessions rests with the resident or his personal representative.

E. When a resident's condition presents an immediate and serious risk to the health, safety or welfare of the resident or others and emergency discharge is necessary, 14-day notification of planned discharge does not apply, although the reason for the relocation shall be discussed with the resident and when possible his personal representative, if any.

F. Under emergency conditions, the resident or his personal representative and the family, caseworker, social worker or other agency personnel, as appropriate, shall be informed as rapidly as possible, but by the close of the business day following discharge, of the reasons for the move.

G. At the time of discharge, except as noted in subdivision 5

of this subsection, the ~~adult care residence~~ assisted living facility shall provide to the resident or his personal representative a dated statement signed by the licensee or administrator which contains the following information:

1. The date on which the resident or his personal representative was notified of the planned discharge and the name of the personal representative who was notified;
2. The reason or reasons for the discharge;
3. The actions taken by the facility to assist the resident in the discharge and relocation process;
4. The date of the actual discharge from the facility and the resident's destination;
5. When the termination of care is due to emergency conditions, the dated statement shall contain the above information as appropriate and shall be provided or mailed to the resident or his personal representative as soon as practicable and within 48 hours from the time of the decision to discharge.

H. A copy of the written statement required by subsection G of this section shall be retained in the resident's record.

I. When the resident is discharged and moves to another caregiving facility, the ~~adult care residence~~ assisted living facility shall provide to the receiving facility such information related to the resident as is necessary to ensure continuity of care and services. Original information pertaining to the resident shall be maintained by the ~~adult care residence~~ assisted living facility from which the resident was discharged. The ~~adult care residence~~ assisted living facility shall maintain a listing of all information shared with the receiving facility.

J. Within 60 days of the date of discharge, each resident or his appropriate personal representative shall be given a final statement of account, any refunds due, and return of any money, property or things of value held in trust or custody by the facility.

PART IV. RESIDENT ACCOMMODATIONS, CARE AND RELATED SERVICES

22 VAC 40-71-170. Assessment and individualized service plans.

A. Uniform assessment instrument.

1. Private pay residents. As a condition of admission, the facility shall obtain a UAI with the items completed that are specified in Assessment in Adult Care Residences (22 VAC 40-745-10 et seq.). The facility shall obtain the UAI from one of the following entities:

a. An independent physician;

b. A facility employee with documented training in the completion of the UAI and appropriate application of level of care criteria, provided the administrator or the administrator's designated representative approves and then signs the completed UAI; or

c. A case manager employed by a public human services agency or other qualified assessor.

2. Public pay residents. As a condition of admission, the facility shall obtain a completed UAI from the prospective resident's case manager or other qualified assessor.

3. The UAI shall be completed within 90 days prior to the date of admission to the ~~adult care residence~~ assisted living facility except that if there has been a change in the resident's condition since the completion of the UAI which would appear to affect the admission, a new UAI shall be completed.

4. When a resident moves to an ~~adult care residence~~ assisted living facility from another ~~adult care residence~~ assisted living facility or other long-term care setting which uses the UAI, if there is a completed UAI on record, another UAI does not have to be completed. The transferring long-term care provider must update the UAI to indicate any change in the individual's condition.

B. Facilities opting to complete the UAI for prospective private pay residents shall ensure that the information is obtained as required by 22 VAC 40-745-10 et seq.

C. Individualized service plan. The licensee/administrator or designee, in conjunction with the resident, and the resident's family, case worker, case manager, health care providers or other persons, as appropriate, shall develop and implement an

individualized service plan to meet the resident's service needs.

An individualized service plan is not required for those residents who are assessed as capable of maintaining themselves in an independent living status.

The service plan shall be completed within 45 days after admission and shall include the following:

1. Description of identified need;
2. A written description of what services will be provided and who will provide them;
3. When and where the services will be provided; and
4. The expected outcome.
5. If a resident lives in a building housing 19 or fewer residents, the service plan shall include a statement that specifies whether the person does need or does not need to have a staff member awake and on duty at night.

The master service plan shall be filed in the resident's record; extracts from the plan may be filed in locations specifically identified for their retention, e.g., dietary plan in kitchen.

D. The individualized service plan shall reflect the resident's assessed needs and support the principles of individuality, personal dignity, freedom of choice and home-like environment and shall include other formal and informal supports that may participate in the delivery of services.

E. Uniform assessment instruments shall be completed at least once every 12 months on residents of ~~adult care residences~~ assisted living facilities. Uniform assessment instruments shall be completed as needed as the condition of the resident changes and whenever there is a change in the resident's condition that appears to warrant a change in the resident's approved level of care. All UAIs shall be completed as prescribed in subsections A and B of this section.

F. At the request of the ~~adult care residence~~ assisted living facility, the resident's representative, the resident's physician, the Department of Social Services, or the local

department of social services, an independent assessment using the UAI shall be completed to determine whether the resident's care needs are being met in the ~~adult care residence~~ assisted living facility. The ~~adult care residence~~ assisted living facility shall assist the resident in obtaining the independent assessment as requested.

G. For private pay residents, the ~~adult care residence~~ assisted living facility shall be responsible for coordinating with an independent physician, a case manager or other qualified assessor as necessary to ensure that UAIs are completed as required.

H. Individualized service plans shall be reviewed and updated at least once every 12 months. Individualized service plans shall be reevaluated as needed as the condition of the resident changes.

I. The licensee shall designate a staff person to review, monitor, implement and make appropriate modifications to the individualized service plan. This person shall also keep the resident's case manager, if applicable, informed of significant changes in the resident's condition.

22 VAC 40-71-180. Resident and personnel records.

A. Any forms used for recordkeeping shall contain at a minimum the information specified in this chapter. Model forms, which may be copied, will be supplied by the department upon request.

B. Any physician's notes and progress reports in the possession of the facility shall be retained in the resident's record.

C. Copies of all agreements between the facility and the resident and official acknowledgment of required notifications, signed by all parties involved, shall be retained in the resident's record. Copies shall be provided to the resident and any appropriate personal representative.

D. All records which contain the information required by these standards for both residents and personnel shall be retained at the facility and kept in a locked area.

E. The licensee shall assure that all records are treated confidentially and that information shall be made available only when needed for care of the resident. All records shall

be made available for inspection by the department's representative.

F. Residents shall be allowed access to their own records.

G. The resident's individual record shall be kept current and the complete record shall be retained until two years after the resident leaves the ~~residence~~ facility.

H. A current picture of each resident shall be readily available for identification purposes, or if the resident refuses to consent to a picture, there shall be a narrative physical description, which is annually updated, maintained in his file.

22 VAC 40-71-190. Release of information from resident's record.

A. The resident or the appropriate personal representative has the right to release information from the resident's record to persons or agencies outside the facility.

B. The licensee is responsible for making available to residents a form which residents may use to grant their written permission to release information to persons or agencies outside the facility.

A model form, which may be copied, may be obtained from the department.

C. Only under the following circumstances is a facility permitted to release information from the resident's records or information regarding the resident's personal affairs without the written permission of the resident or his personal representative, where appropriate:

1. When records have been properly subpoenaed;
2. When the resident is in need of emergency medical care and is unable or unwilling to grant permission to release information or his personal representative is not available to grant permission;
3. When the resident moves to another caregiving facility;
4. To representatives of the department; or
5. As otherwise required by law.

22 VAC 40-71-200. Personal possessions.

Each resident shall be permitted to keep reasonable personal property in his possession at a facility in order to maintain individuality and personal dignity. These possessions may include, but are not limited to:

1. Clothing. A facility shall ensure that each resident has his own clothing.

a. The use of a common clothing pool is prohibited.

b. If necessary, resident's clothing shall be inconspicuously marked with his name to avoid getting mixed with others.

c. Residents shall be allowed and encouraged to select their daily clothing and wear clothing to suit their activities and appropriate to weather conditions.

2. Personal care items. Each resident shall have his own personal care items. Toilet paper and soap shall be provided for residents at all commonly shared basins and bathrooms at no additional charge.

22 VAC 40-71-210. Resident rooms.

A. The resident shall be encouraged to furnish or decorate his room as space and safety considerations permit and in accordance with this chapter.

B. Bedrooms shall contain the following items:

1. A separate bed with comfortable mattress, springs and pillow for each resident. Provisions for a double bed for a married couple shall be optional;

2. A table or its equivalent accessible to each bed;

3. An operable bed lamp or bedside light accessible to each resident;

4. A sturdy chair for each resident (wheelchairs do not meet the intent of this standard);

5. Drawer space for clothing and other personal items. If more than one resident occupies a room, ample drawer space

shall be assigned to each individual;

6. At least one mirror; and

7. Window coverings for privacy.

C. Adequate and accessible closet or wardrobe space shall be provided for each resident.

D. The ~~residence~~ facility shall have sufficient bed and bath linens in good repair so that residents always have clean:

1. Sheets;

2. Pillowcases;

3. Blankets;

4. Bedspreads;

5. Towels;

6. Washcloths; and

7. Waterproof mattress covers when needed.

22 VAC 40-71-220. Living room or multipurpose room.

A. Sitting rooms or recreation areas or both shall be equipped with:

1. Comfortable chairs (e.g., overstuffed, straight-backed, and rockers);

2. Tables;

3. Lamps;

4. Television (if not available in other areas of the facility);

5. Radio (if not available in other areas of the facility);

6. Current newspaper; and

7. Materials appropriate for the implementation of the planned activity program, such as books or games.

B. Space other than sleeping areas shall be provided for residents for sitting, for visiting with one another or with guests, for social and recreational activities, and for dining. These areas may be used interchangeably.

22 VAC 40-71-230. Dining areas.

Dining areas shall have a sufficient number of sturdy dining tables and chairs to serve all residents, either all at one time or in reasonable shifts.

22 VAC 40-71-240. Laundry and linens.

A. Residents' clothing shall be kept clean and in good repair.

B. Table coverings and napkins shall be clean at all times.

C. Bed and bath linens shall be changed at least every seven days and more often if needed. In facilities with common bathing areas, bath linens shall be changed after each use.

D. Table and kitchen linens shall be laundered separately from other washable goods.

E. A sanitizing agent shall be used when bed, bath, table and kitchen linens are washed.

22 VAC 40-71-250. Transportation.

The resident shall be assisted in making arrangements for transportation as necessary.

22 VAC 40-71-260. Activity/recreational requirements.

A. There shall be at least 11 hours of scheduled activities available to the residents each week for no less than one hour each day. Activities shall be of a social, recreational, religious, or diversional nature. Community resources may be used to provide activities.

B. These activities shall be varied and shall be planned in consideration of the abilities, physical conditions, need and interests of the residents.

C. The month's schedule of activities shall be written and posted by the first day of the month in a conspicuous place. Residents shall be informed of the activities program.

D. A record shall be kept of the activity schedules for the past three months. They shall be available for inspection by the department.

E. Resident participation in activities.

1. Residents shall be encouraged but not forced to participate in activity programs offered by the facility and the community.

2. Any restrictions on participation imposed by a physician shall be documented in the resident's record.

22 VAC 40-71-270. Resident rights.

A. The resident shall be encouraged and informed of appropriate means as necessary to exercise his rights as a resident and a citizen throughout the period of his stay at the ~~residence~~ facility.

B. The resident has the right to voice or file grievances, or both, with the ~~residence~~ facility and to make recommendations for changes in the policies and services of the ~~residence~~ facility. The residents shall be protected by the licensee or administrator, or both, from any form of coercion, discrimination, threats, or reprisal for having voiced or filed such grievances.

C. Any resident of an ~~adult-care-residence~~ assisted living facility has the rights and responsibilities as provided in § 63.1-182.1 of the Code of Virginia and this chapter.

D. The operator or administrator of an ~~adult-care-residence~~ assisted living facility shall establish written policies and procedures for implementing § 63.1-182.1 of the Code of Virginia.

E. The rights and responsibilities of residents in ~~adult-care-residences~~ assisted living facilities shall be reviewed with all residents annually. Evidence of this review shall be the resident's written acknowledgment of having been so informed which shall include the date of the review and shall be filed in his record.

F. The ~~residence~~ facility shall make available in an easily accessible place a copy of the rights and responsibilities of residents and shall include in it the name, title, address and telephone number of the appropriate regional licensing

supervisor of the Department of Social Services, the toll-free telephone number of the Virginia Long-Term Care Ombudsman Program and any substate (local) ombudsman program serving the area, and the toll-free number of the Department for the Rights of Virginians with Disabilities.

22 VAC 40-71-275. Freedom of movement.

A. Residents who have a UAI, physician assessment, psychiatric or psychological evaluation, or individualized service plan that does not indicate the need for close oversight shall be allowed to freely leave the facility.

B. Doors leading to the outside shall not be locked from the inside or secured from the inside in any manner that amounts to a lock, except that doors may be locked or secured in a manner that amounts to a lock in self-contained special care units as provided in 22 VAC 41-71-700 B.

NOTE: Any devices used to lock or secure doors in any manner must be in accordance with applicable building and fire codes.

C. The facility shall provide freedom of movement for the residents to common areas and to their personal spaces. The facility shall not lock residents out of or inside their rooms.

22 VAC 40-71-280. Visiting in the ~~residence~~ facility.

A. Daily visits to residents in the ~~residence~~ facility shall be permitted.

B. If visiting hours are restricted, daily visiting hours shall be posted in a place conspicuous to the public.

22 VAC 40-71-290. Visiting outside the ~~residence~~ facility.

Residents shall not be prohibited from making reasonable visits away from the ~~residence~~ facility except when there is written order of the appropriate personal representative to the contrary.

22 VAC 40-71-300. Incoming and outgoing mail.

A. Incoming and outgoing mail shall not be censored.

B. Incoming mail shall be delivered promptly.

C. Mail shall not be opened by staff except upon request of the resident or written request of the appropriate personal representative.

22 VAC 40-71-310. Resident councils.

Every ~~adult care residence~~ assisted living facility shall assist the residents in establishing and maintaining a resident council, except when the majority of the residents do not want to have a council. The council shall be composed of residents of the facility and may include their family members. The council may extend membership to advocates, friends and others.

22 VAC 40-71-320. Council duties.

The duties of the resident council shall be determined by the residents and may include but need not be limited to the following:

1. Assisting the facility in developing a grievance procedure;
2. Communicating resident opinions and concerns;
3. Obtaining information from the facility and disseminating the information to the residents;
4. Identifying problems and participating in the resolution of those problems; and
5. Acting as a liaison with the community.

22 VAC 40-71-330. Food service and nutrition.

A. When any portion of an ~~adult care residence~~ assisted living facility is subject to inspection by the State Department of Health, the ~~residence~~ facility shall be in compliance with those regulations, as evidenced by a report from the State Department of Health.

B. All meals shall be served in the dining area as designated by the facility. Under special circumstances, such as temporary illness or incapacity, meals may be served in a resident's room provided a sturdy table is used.

C. Residents with independent living status who have kitchens equipped with stove, refrigerator and sink within their

individual apartments may have the option of obtaining meals from the facility or from another source.

1. The facility must have an acceptable health monitoring plan for these residents and provide meals both for other residents and for residents identified as no longer capable of maintaining independent living status.

2. An acceptable health monitoring plan includes: Assurance of adequate resources, accessibility to food, a capability to prepare food, availability of meals when the resident is sick or temporarily unable to prepare meals for himself.

D. Personnel shall be available to help any resident who may need assistance in reaching the dining room or when eating.

22 VAC 40-71-340. Observance of religious dietary practices.

A. The resident's religious dietary practices shall be respected.

B. Religious dietary laws (or practices) of the administrator or licensee shall not be imposed upon residents unless mutually agreed upon in the admission agreement between administrator or licensee and resident.

22 VAC 40-71-350. Time interval between meals.

A. Time between the evening meal and breakfast the following morning shall not exceed 15 hours.

B. There shall be at least four hours between breakfast and lunch and at least four hours between lunch and supper.

22 VAC 40-71-360. Catering or contract food service.

A. Catering service or contract food service, if used, shall be approved by the state or local health department or both.

B. Persons who are employed by a food service contractor or catering service and who are working on the premises of the ~~adult care residence~~ assisted living facility shall meet the health requirements for employees of ~~adult care residences~~ assisted living facilities; as specified in this chapter and the specific health requirements for food handlers in that locality.

C. Catered food or food prepared and provided on the premises

by a contractor shall meet the dietary requirements set forth in this chapter.

22 VAC 40-71-370. Number of meals.

A. A minimum of three well-balanced meals shall be provided each day.

B. Bedtime snacks shall be made available for all residents desiring them and shall be listed on the daily menu. Vending machines shall not be used as the only source for bedtime snacks.

22 VAC 40-71-380. Menus for meals and snacks.

A. Food preferences of residents shall be considered when menus are planned.

B. Menus for the current week shall be dated and posted in an area conspicuous to residents.

C. Any menu substitutions or additions shall be recorded.

D. A record shall be kept of the menus served for three months. They shall be subject to inspection by the department.

E. Minimum daily menu.

1. Unless otherwise ordered in writing by the resident's physician, the daily menu, including snacks, for each resident shall meet the guidelines of the U.S. Department of Agriculture's Food Guide Pyramid, taking into consideration the age, sex and activity of the resident.

2. Other foods may be added.

3. Second servings shall be provided, if requested, at no additional charge.

4. At least one meal each day shall include a hot main dish.

F. Special diets. When a diet is prescribed for a resident by his physician, it shall be prepared and served according to the physician's orders.

22 VAC 40-71-390. Emergency food and water.

The facility shall ensure the availability of a 72-hour emergency food and drinking water supply.

22 VAC 40-71-400. Administration of medications and related services.

A. No medication, diet, medical procedure or treatment shall be started, changed or discontinued by the facility without an order by the physician. The resident's record shall contain such written order or a dated notation of the physician's verbal order. Verbal orders shall be reviewed and signed by a physician within 10 working days.

B. A medicine cabinet, container or compartment shall be used for storage of medications prescribed for residents when such medications are administered by the facility.

1. The storage area shall be locked.

2. When in use, adequate illumination shall be provided in order to read container labels, but the storage area shall remain darkened when closed.

3. The storage area shall not be located in the kitchen, but in an area free of dampness or abnormal temperatures unless the medication requires refrigeration.

C. A resident may be permitted to keep his own medication in a secure place in his room if the UAI has indicated that the resident is capable of self-administering medication. This does not prohibit the facility from storing or administering all medication provided the provisions of subsection D of this section are met.

D. Administration of medication.

1. Drugs shall be administered to those residents who are dependent in medication administration as documented on the UAI, provided subdivisions 2 and 3 of this subsection are met.

2. All staff responsible for medication administration shall have successfully completed a medication training program approved by the Board of Nursing or be licensed by the Commonwealth of Virginia to administer medications.

3. All medications shall be removed from the pharmacy container and administered by the same authorized person

within two hours.

4. All medications shall be administered in accordance with the physician's instructions.

E. In the event of an adverse drug reaction or a medication error, first aid shall be administered as directed by the Virginia Poison Control Center, pharmacist, or physician. The resident's physician shall be notified as soon as possible and the actions taken by the staff person shall be documented.

F. The facility shall document all medications administered to residents, including over-the-counter medications. This documentation shall include:

1. Name of the resident;
2. Date prescribed;
3. Drug product name;
4. Dosage;
5. Strength of the drug;
6. Route (for example, by mouth);
7. How often medication is to be taken;
8. Date and time given and initials of staff administering the medication;
9. Dates the medication is discontinued or changed;
10. Any medication errors or omissions;
11. Significant adverse effects; and
12. The name and initials of all staff administering medications.

G. The facility shall have a plan for proper disposal of medications.

H. The use of PRN (as needed) medications is prohibited, unless one or more of the following conditions exist:

1. The resident is capable of determining when the

medication is needed;

2. Licensed health care professionals are responsible for medication management; or

3. The resident's physician has provided detailed written instructions or facility staff have telephoned the doctor prior to administering the medication, explained the symptoms and received a documented oral order to assist the resident in self-administration. The physician's instructions shall include symptoms that might indicate the use of the medication, exact dosage, the exact timeframes the medication is to be given in a 24-hour period, and directions as to what to do if symptoms persist.

I. When oxygen therapy is provided, the following safety precautions shall be met and maintained:

1. The facility shall post "No Smoking-Oxygen in Use" signs and enforce the smoking prohibition in any room of a building where oxygen is in use.

2. The facility shall ensure that only oxygen from a portable source shall be used by residents when they are outside their rooms. The use of long plastic tether lines to the main source of oxygen is not permitted.

3. The facility shall make available to staff the emergency numbers to contact the resident's physician and the oxygen vendor for emergency service or replacement.

J. The performance of all medical procedures and treatments ordered by a physician shall be documented and the documentation shall be retained in the residents' record.

22 VAC 40-71-410. Do Not Resuscitate (DNR) orders.

Do Not Resuscitate orders shall only be carried out in a licensed ~~adult care residence~~ assisted living facility when the order has been prescribed by a physician, is included in the individualized service plan and there is a licensed nurse available to implement the order.

22 VAC 40-71-420. Health, hygiene, and grooming.

A. The following standards apply when the resident is in need of health care services (such as mental health counseling, or care of teeth, feet, eyes, ears, etc.)

1. The resident shall be assisted in making appropriate arrangements for the needed care. When mental health care is needed or desired by the resident, this assistance shall include securing the services of the local community mental health and mental retardation services board, state or federal mental health clinic or similar facility or agent in the private sector.

2. When the resident is unable to participate in making appropriate arrangements, the resident's family, personal representative, cooperating social agency or personal physician shall be notified of the need.

B. When the resident suffers serious accident, illness, or medical condition, medical attention shall be secured immediately.

C. The next of kin or personal representative and any responsible social agency shall be notified as soon as possible but at least within 24 hours of any serious illness, or accident, or medical condition including the use of a restraint in an emergency. A notation shall be made in the resident's record of such notice.

D. Each facility shall ensure that health, hygiene and grooming needs of the residents are met, to include but not be limited to the following:

1. Bathing as needed or desired;
2. Shampooing, combing and brushing of hair;
3. Shaving;
4. Trimming of fingernails and toenails (certain medical conditions necessitate that this be done by a licensed health care professional); and
5. Daily tooth brushing and denture care.

E. Any significant changes in a resident's physical or mental condition, including illness or injury, shall be documented in the resident's record.

22 VAC 40-71-430. Incident reports.

All facilities shall report to the licensing agency by the

next working day any major incident which has or could threaten the health, safety or welfare of the residents or staff, such as a fire.

22 VAC 40-71-440. Management and control of resident funds.

Pursuant to § 63.1-182.1 A 3 of the Code of Virginia, unless a committee or guardian of a resident has been appointed (see 22 VAC 40-71-60 C), the resident shall be free to manage his personal finances and funds; provided, however, that the ~~residence~~ facility may assist the resident in such management in accordance with 22 VAC 40-71-450 and 22 VAC 40-71-460.

22 VAC 40-71-450. Resident accounts.

The ~~residence~~ facility shall provide to each resident a monthly statement or itemized receipt of the resident's account and shall place a copy also in the resident's record. The monthly statement or itemized receipt shall itemize any charges made and any payments received during the previous 30 days or during the previous calendar month and shall show the balance due or any credits for overpayment on the resident's account.

22 VAC 40-71-460. Safeguarding residents' funds.

A. If the resident delegates the management of personal funds to the ~~residence~~ facility, the following standards apply:

1. Residents' funds shall be held separately from any other moneys of the ~~residence~~ facility. Residents' funds shall not be borrowed, used as assets of the ~~residence~~ facility, or used for purposes of personal interest by the licensee/operator, administrator, or residence staff.

2. If the ~~residence's~~ facility's accumulated residents' funds are maintained in a single interest-bearing account, each resident shall receive interest proportionate to his average monthly account balance. The ~~residence~~ facility may deduct a reasonable cost for administration of the account.

3. If any personal funds are held by the ~~residence~~ facility for safekeeping on behalf of the resident, a written accounting of money received and disbursed, showing a current balance, shall be maintained. Residents' funds and the accounting of the funds shall be made available to the resident or the personal representative or both upon

request.

B. No ~~residence~~ facility administrator or staff member shall act as either attorney-in-fact or trustee unless the resident has no other preferred designee and the resident himself expressly requests such service by or through ~~residence~~ facility personnel. Any ~~residence~~ facility administrator or staff member so named shall be accountable at all times in the proper discharge of such fiduciary responsibility as provided under Virginia law, shall provide a quarterly accounting to the resident, and, upon termination of the power of attorney or trust for any reason, shall return all funds and assets, with full accounting, to the resident or to his personal representative or to another responsible party expressly designated by the resident. See also 22 VAC 40-71-60 C regarding committees or guardians appointed by a court of competent jurisdiction.

22 VAC 40-71-470. Restraints.

A. Restraints shall not be used for purposes of discipline or convenience. Restraints may only be used to treat a resident's medical symptoms.

B. The facility may only impose physical restraints to treat the resident's medical symptoms that warrant the use of restraints, if the restraint is:

1. Necessary to ensure the physical safety of the resident or others; and
2. Imposed in accordance with a physician's written order that specifies the circumstances and duration under which the restraint is to be used, except in emergency circumstances until such an order can reasonably be obtained; and
3. Not ordered on a standing, blanket, or "as needed" (PRN) basis.

C. Whenever physical restraints are used, the following conditions shall be met:

1. A restraint shall be used only to the extent that is minimally necessary to protect the resident or others.
2. Restraints shall only be applied by staff who have received training in their use as specified by 22 VAC

40-71-480 B;

3. The facility shall closely monitor the resident's condition which includes checking on the resident at least every 30 minutes;

4. The facility shall assist the resident as often as necessary, but no less than 10 minutes every two hours, for his safety, comfort, exercise, and elimination needs;

5. The facility shall release the resident from the restraint as quickly as possible;

6. Staff shall keep a record of restraint usage, checks, and care periods and note any unusual occurrences or problems;

7. Any facility using restraints shall develop and implement a written plan to reduce or eliminate the use of restraints in the facility;

8. In nonemergencies (as defined in 22 VAC 40-71-10):

a. Restraints shall be used as a last resort and only if the facility, after completing, implementing and evaluating the resident's comprehensive assessment and service plan, determines and documents that less restrictive means have failed;

b. Restraints shall be used in accordance with the resident's service plan which allows for their progressive removal or the progressive use of less restrictive means;

c. The facility shall explain the use of the restraint and potential negative outcomes to the resident or his personal representative and the resident's right to refuse the restraint, and shall obtain the written consent of the resident or his personal representative;

d. Restraints shall be applied so as to cause no physical injury and the least possible discomfort; and

9. In emergencies (as defined in 22 VAC 40-71-10):

a. Restraints shall not be used unless they are necessary to alleviate an unanticipated immediate and serious danger to the resident or other individuals in the

facility;

b. The order shall be confirmed in writing by the physician as soon as possible;

c. The resident shall be within sight and sound of staff at all times; and

d. If the emergency restraint is necessary for longer than two hours, the resident shall be transferred to a medical facility or monitored in the facility by a mental health crisis team until his condition has stabilized to the point that the attending physician documents that restraints are not necessary.

D. The use of chemical restraints is prohibited.

22 VAC 40-71-480. Staff training when aggressive or restrained residents are in care.

The following training is required for staff in ~~adult-care residences~~ assisted living facilities that accept, or have in care, residents who are aggressive or restrained:

1. Aggressive residents.

a. Direct care staff shall be trained in methods of dealing with residents who have a history of aggressive behavior or of dangerously agitated states prior to being involved in the care of such residents.

b. This training shall include, at a minimum, information, demonstration, and practical experience in self-protection and in the prevention and de-escalation of aggressive behavior.

2. Restrained residents.

a. Direct care staff shall be appropriately trained in caring for the health needs of residents who are restrained prior to being involved in the care of such residents. Licensed medical personnel, e.g., R.N.s, L.P.N.s, are not required to take this training if their academic background deals with this type of care.

b. This training shall include, at a minimum, information, demonstration and experience in:

- (1) The proper techniques for applying and monitoring restraints;
- (2) Skin care appropriate to prevent redness, breakdown, and decubiti;
- (3) Active and active assisted range of motion to prevent joint contractures;
- (4) Assessment of blood circulation to prevent obstruction of blood flow and promote adequate blood circulation to all extremities;
- (5) Turning and positioning to prevent skin breakdown and keep the lungs clear;
- (6) Provision of sufficient bed clothing and covering to maintain a normal body temperature; and
- (7) Provision of additional attention to meet the physical, mental, emotional, and social needs of the restrained resident.

3. The training described in subdivisions 1 and 2 of this section shall meet the following criteria:

a. Training shall be provided by a qualified health professional.

b. A written description of the content of this training, a notation of the person/agency/organization or institution providing the training and the names of staff receiving the training shall be maintained by the facility except that, if the training is provided by the department, only a listing of staff trained and the date of training are required.

4. Refresher training for all direct care staff shall be provided at least annually or more often as needed.

a. The refresher training shall encompass the techniques described in subdivision 1 or 2 of this section, or both.

b. A record of the refresher training and a description of the content of the training shall be maintained by the facility.

PART V. BUILDING AND GROUNDS

22 VAC 40-71-490. General requirements.

A. Buildings licensed for ambulatory residents or nonambulatory residents shall be classified by and meet the specifications for the proper use group as required by the Virginia Uniform Statewide Building Code (13 VAC 5-61-10 et seq.).

B. A certificate of occupancy shall be obtained as evidence of compliance with the applicable edition of the Virginia Uniform Statewide Building Code.

C. Before construction begins or contracts are awarded for any new construction, remodeling, or alterations, plans shall be submitted to the department for review.

D. Doors and windows.

1. All doors shall open and close readily and effectively.

2. Any doorway or window that is used for ventilation shall be effectively screened.

E. There shall be enclosed walkways between residents' rooms and dining and sitting areas which are adequately lighted, heated, and ventilated. This requirement shall not apply to existing buildings or ~~residences~~ facilities that had licenses in effect on January 1, 1980, unless such buildings are remodeled after that date or there is a change of sponsorship of the licensed ~~residence~~ facility.

F. There shall be an ample supply of hot and cold water from an approved source available to the residents at all times.

G. Hot water at taps available to residents shall be maintained within a range of 105--120F.

H. Where there is an outdoor area accessible to residents, such as a porch or lawn, it shall be equipped with furniture in season.

I. Cleaning supplies and other hazardous materials shall be stored in a locked area. This safeguard shall be optional in an independent living environment.

J. Each facility shall develop and implement a written policy regarding weapons on the premises of the facility that will ensure the safety and well-being of all residents and staff.

22 VAC 40-71-500. Maintenance of buildings and grounds.

A. The interior and exterior of all buildings shall be maintained in good repair.

B. The interior and exterior of all buildings shall be kept clean and shall be free of rubbish.

C. All buildings shall be well ventilated and free from foul, stale and musty odors.

D. Adequate provisions for the collection and legal disposal of garbage, ashes and waste material shall be made.

1. Covered, vermin-proof, watertight containers shall be used.

2. Containers shall be emptied and cleaned at least once a week.

E. Buildings shall be kept free of flies, roaches, rats and other vermin. The grounds shall be kept free of their breeding places.

F. All furnishings and equipment, including sinks, toilets, bathtubs, and showers, shall be kept clean and in good repair.

G. Each room shall have walls, ceiling, and floors or carpeting that may be cleaned satisfactorily.

H. All inside and outside steps, stairways and ramps shall have nonslip surfaces.

I. Grounds shall be properly maintained to include mowing of grass and removal of snow and ice.

J. Handrails shall be provided on all stairways, ramps, elevators, and at changes of floor level.

K. Elevators, where used, shall be kept in good running condition and shall be inspected at least annually. The signed and dated certificate of inspection issued by the local authority, by the insurance company, or by the elevator company shall be evidence of such inspection.

22 VAC 40-71-510. Heating, ventilation, and cooling.

A. Rooms extending below ground level shall not be used for residents unless they are dry and well ventilated. Bedrooms below ground level shall have required window space and ceiling height.

B. At least one movable thermometer shall be available in each building for measuring temperatures in individual rooms that do not have a fixed thermostat which shows the temperature in the room.

C. Heat.

1. Heat shall be supplied from a central heating plant or by an approved electrical heating system.

2. Provided their installation or operation has been approved by the state or local fire authorities, space heaters, such as but not limited to, wood burning stoves, coal burning stoves, and oil heaters, or portable heating units either vented or unvented, may be used only to provide or supplement heat in the event of a power failure or similar emergency. These appliances shall be used in accordance with the manufacturer's instructions.

3. When outside temperatures are below 65F, a temperature of at least 72F shall be maintained in all areas used by residents during hours when residents are normally awake. During night hours, when residents are asleep, a temperature of at least 68F shall be maintained. This standard applies unless otherwise mandated by federal or state authorities.

D. Cooling devices.

1. Cooling devices shall be made available in those areas of buildings used by residents when inside temperatures exceed 85F.

2. Cooling devices shall be placed to minimize drafts.

3. Any electric fans shall be screened and placed for the protection of the residents.

4. When air conditioners are not provided, the facility shall develop and implement a plan to protect residents

from heat related illnesses.

22 VAC 40-71-520. Lighting and lighting fixtures.

- A. Artificial lighting shall be by electricity.
- B. All areas shall be well lighted for the safety and comfort of the residents according to the nature of activities.
- C. Outside entrances and parking areas shall be lighted for protection against injuries and intruders.
- D. Hallways, stairwells, foyers, doorways, and exits utilized by residents shall be kept well lighted at all times residents are present in the building.
- E. Additional lighting, as necessary to provide and ensure presence of contrast, shall be available for immediate use in areas that may present safety hazards, such as, but not limited to, stairways, doorways, passageways, changes in floor level, kitchen, bathrooms and basements.
- F. Glare shall be kept at a minimum in rooms used by residents. When necessary to reduce glare, coverings shall be used for windows and lights.
- G. If used, fluorescent lights shall be replaced if they flicker or make noise.
- H. Emergency lighting.
 - 1. Flashlights or battery lanterns shall be available at all times, with one light for each employee directly responsible for resident care who is on duty between 6 p.m. and 6 a.m.
 - 2. There shall be one operable flashlight or battery lantern available for each bedroom used by residents and for the living and dining area unless there is a provision for emergency lighting in the adjoining hallways.
 - 3. Open flame lighting is prohibited.

22 VAC 40-71-530. Sleeping areas.

Resident sleeping quarters shall provide:

- 1. For not less than 450 cubic feet of air space per

resident;

2. For square footage as provided in this subdivision:

a. As of February 1, 1996, all buildings approved for construction or change in use group, as referenced in the BOCA National Building Code, shall have not less than 100 square feet of floor area in bedrooms accommodating one resident; otherwise not less than 80 square feet of floor area in bedrooms accommodating one resident shall be required.

b. As of February 1, 1996, all buildings approved for construction or change in use group, as referenced in the BOCA National Building Code, shall have not less than 80 square feet of floor area per person in bedrooms accommodating two or more residents; otherwise not less than 60 square feet of floor area per person in bedrooms accommodating two or more persons shall be required;

3. For ceilings at least 7 1/2 feet in height;

4. For window areas as provided in this subdivision:

a. There shall be at least eight square feet of glazed window area above ground level in a room housing one person, and

b. There shall be at least six square feet of glazed window area above ground level per person in rooms occupied by two or more persons;

5. For occupancy by no more than four residents in a room. A ~~residence~~ facility that had a valid license on January 1, 1980, permitting care of more than four residents in specific rooms, will be deemed to be in compliance with this standard; however, the ~~residence~~ facility may not exceed the maximum number of four residents in any other room in the facility. This exception will not be applicable if the ~~residence~~ facility is remodeled or if there is a change of sponsorship.

6. For at least three feet of space between sides and ends of beds that are placed in the same room;

7. That no bedroom shall be used as a corridor to any other room;

8. That all beds shall be placed only in bedrooms; and

9. That household members and staff shall not share bedrooms with residents.

22 VAC 40-71-540. Toilet, handwashing and bathing facilities.

A. In determining the number of toilets, washbasins, bathtubs or showers required, the total number of persons residing on the premises shall be considered. Unless there are separate facilities for household members or live-in staff, they shall be counted in determining the required number of fixtures. In a ~~residence~~ facility with a valid license on January 1, 1980, only residents shall be counted in making the determination unless such ~~residence~~ facility is subsequently remodeled or there is a change of sponsorship.

1. On each floor where there are residents' bedrooms, there shall be:

a. At least one toilet for each seven persons;

b. At least one washbasin for each seven persons;

c. At least one bathtub or shower for each 10 persons;

d. Toilets, washbasins and bathtubs or showers in separate rooms for men and women where more than seven persons live on a floor. Bathrooms equipped to accommodate more than one person at a time shall be labeled by sex. Sex designation of bathrooms shall remain constant during the course of a day.

2. On floors used by residents where there are no residents' bedrooms there shall be:

a. At least one toilet;

b. At least one washbasin;

c. Toilets and washbasins in separate rooms for men and women in ~~residences~~ facilities where there are 10 or more residents. Bathrooms equipped to accommodate more than one person at a time shall be designated by sex. Sex designation of bathrooms must remain constant during the course of a day.

B. Bathrooms shall provide for visual privacy for such

activities as bathing, toileting, and dressing.

C. There shall be ventilation to the outside in order to eliminate foul odors.

D. The following sturdy safeguards shall be provided:

1. Handrails by bathtubs;
2. Grab bars by toilets; and
3. Handrails and stools by stall showers.

These safeguards shall be optional for individuals with independent living status.

22 VAC 40-71-550. Toilet supplies.

A. The ~~residence~~ facility shall have an adequate supply of toilet tissue and soap. Toilet tissue shall be accessible to each commode.

B. Common handwashing ~~facilities~~ washbasins shall have paper towels or an air dryer, and liquid soap for hand washing.

22 VAC 40-71-560. Fire safety: Compliance with state regulations and local fire ordinances.

A. An ~~adult-care-residence~~ assisted living facility shall comply with the Virginia Statewide Fire Prevention Code, (13 VAC 5-50-10 et seq.) as determined by at least an annual inspection by the appropriate fire prevention official.

B. An ~~adult-care-residence~~ assisted living facility shall comply with any local fire ordinance.

22 VAC 40-71-570. Fire plans.

A. An ~~adult-care-residence~~ assisted living facility shall have a fire plan approved by the appropriate fire prevention official. The plan shall consist of the following:

1. Written procedures to be followed in the event of a fire. The local fire department or fire prevention bureau shall be consulted in preparing such a plan, if possible;
2. A drawing of each floor of each building, showing alternative exits for use in a fire, location of

telephones, fire alarm boxes and fire extinguishers, if any. The drawing shall be prominently displayed on each floor of each building used by residents.

B. The telephone numbers for the fire department, rescue squad or ambulance, and police shall be posted by each telephone shown on the fire plan.

NOTE: In ~~adult care residences~~ assisted living facilities where all outgoing telephone calls must be placed through a central switchboard located on the premises, this information may be posted by the switchboard rather than by each telephone, providing this switchboard is manned 24 hours each day.

C. The licensee or administrator or both and all staff members shall be fully informed of the approved fire plan, including their duties, and the location and operation of fire extinguishers and fire alarm boxes, if available.

D. The approved fire plan shall be reviewed quarterly with all staff and with all residents.

22 VAC 40-71-580. Fire drills.

A. At least one fire drill shall be held each month for the staff on duty and all residents who are in the building at the time of the fire drill to practice meeting the requirements of the approved fire plan. During a three-month period:

1. At least one fire drill shall be held between the hours of 7 a.m. and 3 p.m.;

2. At least one fire drill shall be held between the hours of 3 p.m. and 11 p.m.; and

3. At least one fire drill shall be held between the hours of 11 p.m. and 7 a.m.

B. Additional fire drills may be held at the discretion of the administrator or licensing specialist and must be held when there is any reason to question whether all residents can meet the requirements of the approved fire plan.

C. Each required drill shall be unannounced.

D. Immediately following each required fire drill, there shall be an evaluation of the drill by the staff in order to

determine the effectiveness of the drill. The licensee or administrator shall immediately correct any problems identified in the evaluation.

E. A record of required fire drills shall be kept in the ~~residence~~ facility for one year. Such record shall include the date, the hour, the number of staff participating, the number of residents, and the time required to comply with subdivision F 2 of this section.

F. Fire drills shall include at least the following:

1. Sounding of fire alarms;
2. Practice in building evacuation procedures or, if evacuation is not required, other procedures as specified in the approved fire plan. This practice shall be timed;
3. Practice in alerting fire fighting authorities;
4. Simulated use of fire fighting equipment;
5. Practice in fire containment procedures; and
6. Practice of other fire safety procedures as may be required by the facility's approved fire plan.

22 VAC 40-71-590. Emergency procedures.

A. An ~~adult care residence~~ assisted living facility shall have written procedures to meet other emergencies, including severe weather, loss of utilities, missing persons and severe injury.

B. The procedures required by subsection A of this section and the approved fire plan shall be discussed at orientation for new staff, for new residents, and for volunteers.

22 VAC 40-71-600. Provisions for emergency calls/signaling systems.

A. All ~~adult care residences~~ assisted living facilities shall have a signaling device that is easily accessible to the resident in his bedroom or in a connecting bathroom that enables the staff to be readily available to the resident.

B. In ~~residences~~ facilities licensed to care for 20 or more residents under one roof, there shall be a signaling device or intercom or a telephone which terminates at the staff station

and permits staff to determine the origin of the signal. If the device does not terminate at the staff station so as to permit staff to determine the origin of the signal, staff shall make rounds at least once each hour to monitor for emergencies. These rounds shall begin when the majority of the residents have gone to bed each evening and shall terminate when the majority of the residents have arisen each morning.

1. A written log shall be maintained showing the date and time rounds were made and the signature of the person who made rounds.

2. Logs for the past three months shall be retained.

3. These logs shall be subject to inspection by the department.

22 VAC 40-71-610. Telephones.

A. Each building shall have at least one operable, nonpay telephone easily accessible to staff. There shall be additional telephones or extensions as may be needed to summon help in an emergency.

B. The resident shall have reasonable access to a nonpay telephone on the premises.

C. Privacy shall be provided for residents to use a telephone.

22 VAC 40-71-620. Smoking.

A. Smoking by residents and staff shall be done only in areas designated by the facility and approved by the State Fire Marshal or local fire prevention authorities. Smoking shall not be allowed in a kitchen or food preparation areas.

B. All designated smoking areas shall be provided with suitable ashtrays.

C. Residents shall not be permitted to smoke in or on their beds. This does not apply to independent living facilities.

D. All common areas shall have smoke-free areas designated for nonsmokers.

PART VI. ADDITIONAL REQUIREMENTS FOR ASSISTED LIVING CARE FACILITIES

ARTICLE 1. GENERAL REQUIREMENTS

22 VAC 40-71-630. Personnel and staffing.

A. The administrator shall be a high school graduate or shall have a General Education Development Certificate (GED) and shall have successfully completed at least two years of post secondary education or one year of courses in human services or group care administration from an accredited college or institution or a department approved curriculum specific to the administration of an ~~adult care residence~~ assisted living facility. The administrator also shall have completed at least one year of experience in caring for adults with mental or physical impairments, as appropriate to the population in care, in a group care facility. The following three exceptions apply:

1. Administrators employed prior to the effective date of these standards who do not meet the above requirement shall be a high school graduate or shall have a GED, or shall have completed at least one full year of successful experience in caring for adults in a group care facility;
2. Licensed nursing home administrators who maintain a current license from the Virginia Department of Health Professions;
3. Licensed nurses who meet the above experience requirements. The requirements in this standard are in lieu of the requirements specified in 22 VAC 40-71-60 B 4.

B. Any designated assistant administrator as referenced in 22 VAC 40-71-60 F, that is acting in place of the administrator for part or all of the 40 hours, shall meet the qualifications of the administrator, or if employed prior to the effective date of these standards, its exception, unless the designated assistant is performing as an administrator for fewer than 15 of the 40 hours referenced in 22 VAC 40-71-60 F or for fewer than four weeks due to the vacation or illness of the administrator, then the requirements of 22 VAC 40-71-60 B 4 shall be acceptable.

C. All direct care staff shall have satisfactorily completed, or within 30 days of employment shall enroll in and successfully complete within four months of employment, a training program consistent with department requirements,

except as noted in subsections D and E of this section. Department requirements shall be met in one of the following four ways:

1. Registration as a certified nurse aide.

2. Graduation from a Virginia Board of Nursing approved educational curriculum from a Virginia Board of Nursing accredited institution for nursing assistant, geriatric assistant or home health aide.

3. Graduation from a department approved educational curriculum for nursing assistant, geriatric assistant or home health aide. The curriculum is provided by a hospital, nursing facility, or educational institution not approved by the Virginia Board of Nursing, e.g., out-of-state curriculum. To obtain department approval:

a. The facility shall provide to the licensing representative an outline of the course content, dates and hours of instruction received, the name of the institution which provided the training, and other pertinent information.

b. The department will make a determination based on the above information and provide written confirmation to the facility when the course meets department requirements.

4. Successful completion of department approved ~~adult-care residence~~ assisted living facility offered training. To obtain department approval:

a. Prior to offering the course, the facility shall provide to the licensing representative an outline of the course content, the number of hours of instruction to be given, the name and professional status of the trainer, and other pertinent information.

b. The content of the training shall be consistent with the content of the personal care aide training course of the Department of Medical Assistance Services; a copy of the outline for this course is available from the licensing representative.

c. The training shall be provided by a licensed health care professional acting within the scope of the requirements of his profession.

d. The department will make a determination regarding approval of the training and provide written confirmation to the facility when the training meets department requirements.

D. Licensed health care professionals, acting within the scope of the requirements of their profession, are not required to complete the training in subsection C of this section.

E. Direct care staff of the facility employed prior to February 1, 1996, shall either meet the training requirements in subsection C of this section within one year of February 1, 1996, or demonstrate competency in the items listed on a skills checklist within the same time period. The following applies to the skills checklist:

1. The checklist shall include the content areas covered in the personal care aide training course. A department model checklist is available from the licensing representative.

2. A licensed health care professional, acting within the scope of the requirements of his profession, shall evaluate the competency of the staff person in each item on the checklist, document competency, and sign and date.

F. The facility shall obtain a copy of the certificate issued to the certified nurse aide, the nursing assistant, geriatric assistant or home health aide, or documentation indicating ~~adult care residence~~ assisted living facility offered training has been successfully completed. The copy of the certificate or the appropriate documentation shall be retained in the staff member's file. Written confirmation of department course or training approval shall also be retained in the staff member's file, as appropriate.

G. When direct care staff are employed who have not yet successfully completed the training program as allowed for in subsection C of this section, the administrator shall develop and implement a written plan for supervision of these individuals.

H. On an annual basis, all direct care staff shall attend at least 12 hours of training which focuses on the resident who is mentally or physically impaired, as appropriate to the population in care. This requirement is in lieu of the requirement specified in 22 VAC 40-71-80 D.

I. Documentation of the dates of the training received

annually, number of hours and type of training shall be kept by the facility in a manner that allows for identification by individual employee.

J. Each ~~adult care residence~~ assisted living facility shall retain a licensed health care professional, either by direct employment or on a contractual basis, to provide health care oversight. The licensed health care professional, acting within the scope of the requirements of his profession, shall be on-site at least quarterly and more often if indicated, based on his professional judgment of the seriousness of a resident's needs or the stability of a resident's condition. The responsibilities of the professional while on site shall include at least quarterly:

1. Recommending in writing changes to a resident's service plan whenever the plan does not appropriately address the current health care needs of the resident.
2. Monitoring of direct care staff performance of health related activities, including the identification of any significant gaps in the staff person's ability to function competently.
3. Advising the administrator of the need for staff training in health related activities or the need for other actions when appropriate to eliminate problems in competency level.
4. Providing consultation and technical assistance to staff as needed.
5. Directly observing every resident whose care needs are equivalent to the intensive assisted living criteria and recommending in writing any needed changes in the care provided or in the resident's service plan. For auxiliary grant recipients receiving intensive assisted living services, the monitoring will be in accordance with the specifications of the Department of Medical Assistance Services.
6. Reviewing documentation regarding health care services, including medication and treatment records to assess that services are being provided in accordance with physicians' orders, and informing the administrator of any problems.
7. Reviewing the current condition and the records of restrained residents to assess the appropriateness of the

restraint and progress toward its reduction or elimination, and advising the administrator of any concerns.

K. A resident's need for skilled nursing treatments within the facility shall be met by facility employment of a licensed nurse or contractual agreement with a licensed nurse, or by a home health agency or by a private duty licensed nurse.

22 VAC 40-71-640. Resident personal and social data.

Prior to or at the time of admission to an ~~adult-care residence~~ assisted living facility, the following information on a person shall be obtained and placed in the individual's record:

1. Description of family structure and relationships;
2. Previous mental health/mental retardation services history, if any, and if applicable for care or services;
3. Current behavioral and social functioning including strengths and problems; and
4. Any substance abuse history if applicable for care or services.

22 VAC 40-71-650. Resident care and related services.

A. There shall be at least 14 hours of scheduled activities available to the residents each week for no less than one hour each day. The activities shall be designed to meet the specialized needs of the residents and to promote maximum functioning in physical, mental, emotional, and social spheres. This requirement is in lieu of the requirement specified in 22 VAC 40-71-~~250~~ 260 A.

B. Facilities shall assure that all restorative care and habilitative service needs of the residents are met. Staff who are responsible for planning and meeting the needs shall have been trained in restorative and habilitative care. Restorative and habilitative care includes, but is not limited to, range of motion, assistance with ambulation, positioning, assistance and instruction in the activities of daily living, psychosocial skills training, and reorientation and reality orientation.

C. In the provision of restorative and habilitative care, staff shall emphasize services such as the following:

1. Making every effort to keep residents active, within the limitations permitted by physicians' orders.

2. Encouraging residents to achieve independence in the activities of daily living.

3. Assisting residents to adjust to their disabilities, to use their prosthetic devices, and to redirect their interests if they are no longer able to maintain past involvement in activities.

4. Assisting residents to carry out prescribed physical therapy exercises between visits from the physical therapist.

5. Maintaining a bowel and bladder training program.

D. Facilities shall assure that the results of the restorative and habilitative care are documented in the service plan.

E. Facilities shall arrange for specialized rehabilitative services by qualified personnel as needed by the resident. Rehabilitative services include physical therapy, occupational therapy and speech-language pathology services. Rehabilitative services may be indicated when the resident has lost or has shown a change in his ability to respond to or perform a given task and requires professional rehabilitative services in an effort to regain lost function. Rehabilitative services may also be indicated to evaluate the appropriateness and individual response to the use of assistive technology.

F. All rehabilitative services rendered by a rehabilitative professional shall be performed only upon written medical referral by a physician or other qualified health care professional.

G. The physician's orders, services provided, evaluations of progress, and other pertinent information regarding the rehabilitative services shall be recorded in the resident's record.

H. Direct care staff who are involved in the care of residents using assistive devices shall know how to operate and utilize the devices.

I. A licensed health care professional, acting within the scope of the requirements of his profession, shall perform an

annual review of all the medications of each resident, including both prescription and over-the-counter medications. The results of the review shall be documented, signed and dated by the health care professional, and retained in the resident's record. Any potential problems shall be reported to the resident's attending physician and to the facility administrator. Action taken in response to the report shall also be documented in the resident's record.

ARTICLE 2. ADDITIONAL REQUIREMENTS FOR ASSISTED LIVING CARE FACILITIES CARING FOR ADULTS WITH MENTAL ILLNESS OR MENTAL RETARDATION OR WHO ARE SUBSTANCE ABUSERS

22 VAC 40-71-660. Psychiatric or psychological evaluation.

A. When determining the appropriateness of admission for applicants with serious mental illness, mental retardation or a history of substance abuse, a current psychiatric or psychological evaluation may be needed. The need for this evaluation will be indicated by the UAI or based upon the recommendation of the resident's case manager or other assessor.

B. A current evaluation for an applicant with mental illness or a history of substance abuse shall be no more than 12 months old, unless the case manager or other assessor recommends a more recent evaluation.

C. A current evaluation for a person with mental retardation shall be no more than three years old, unless the case manager or other assessor recommends a more recent evaluation.

D. The evaluation shall have been completed by a person having no financial interest in the ~~adult care residence~~ assisted living facility, directly or indirectly as an owner, officer, employee, or as an independent contractor with the ~~residence~~ facility.

E. A copy of the evaluation shall be filed in the resident's record.

22 VAC 40-71-670. Services agreement and coordination.

A. The facility shall enter into a written agreement with the local community mental health, mental retardation and substance abuse services board, or a public or private mental

health clinic, treatment facility or agent to make services available to all residents. This agreement shall be jointly reviewed annually by the ~~adult care residence~~ assisted living facility and the service entity.

NOTE: This requirement does not preclude a resident from engaging the services of a private psychiatrist or other appropriate professional.

B. Services to be included in the agreement shall at least be the following:

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 specified in 22 VAC 40-71-680.

C. A copy of the agreement specified in subsections A and B of this section shall remain on file in the ~~adult care residence~~ assisted living facility.

D. For each resident 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.

22 VAC 40-71-680. Written progress reports.

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.

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.

C. The progress reports shall contain at a minimum:

1. A statement that continued services are or are not needed;

2. Recommendations, if any, for continued services;

3. A statement that the resident's needs can continue to be met in an ~~adult care residence~~ assisted living facility; and

4. A statement of any recommended services to be provided by the ~~adult care residence~~ assisted living facility.

D. Copies of the progress reports shall be filed in the resident's record.

22 VAC 40-71-690. Obtaining recommended services.

The ~~adult care residence~~ assisted living facility shall assist the resident in obtaining the services recommended in the initial evaluation and in the progress reports.

ARTICLE 3. ADDITIONAL REQUIREMENTS FOR ASSISTED LIVING CARE FACILITIES CARING FOR ADULTS WITH SERIOUS COGNITIVE ~~DEFICITS~~ IMPAIRMENTS

22 VAC 40-71-700. Adults with serious cognitive deficits impairments.

All residents with serious cognitive impairments due to a primary psychiatric diagnosis of dementia who cannot recognize danger or protect their own safety and welfare shall be subject to either subsection A or B of this section. All residents with serious cognitive impairments due to any other diagnosis who cannot recognize danger or protect their own safety and welfare shall be subject to subsection A of this section.

NOTE: Serious cognitive impairment is defined in 22 VAC 40-71-10.

A. ~~The requirements provided in subsection B of this section apply when any resident exhibits behavior indicating a serious cognitive deficit and when the resident cannot recognize danger or protect his own safety and welfare, except as noted~~

~~in subdivision B 12 of this section. The following requirements apply when there is a mixed population of (i) residents who have a serious cognitive impairment as defined in 22 VAC 40-71-10 who cannot recognize danger or protect their own safety and welfare, and (ii) other residents. Except for special care units covered by subsection B of this section, these requirements apply to the entire facility unless specified otherwise.~~

~~B. If there is a mixed population the requirements apply to the entire facility unless specified otherwise. If there is a self-contained special care unit for residents with serious cognitive deficits, the requirements apply only to the special care unit.~~

1. There shall be at least two direct care staff members in each building at all times that residents are present who shall be responsible for their care and supervision.

2. During trips away from the facility, there shall be sufficient staff to provide sight and sound supervision to all residents with serious cognitive impairments.

3. Commencing immediately and within six months of employment, direct care staff shall complete four hours of dementia/cognitive deficit training in the characteristics, care and supervision of residents with cognitive impairments. This training is counted toward meeting the annual training requirements for the first year.

4. Commencing immediately and within three months of employment, the administrator shall complete 12 hours of dementia/cognitive deficit impairment training. This training is counted toward the annual training requirements for the first year.

5. Curriculum for the dementia/cognitive deficit impairment training shall be developed by a qualified health professional or by a licensed social worker, shall be relevant to the population in care and shall include, but need not be limited to:

a. ~~Explanation of Alzheimer's disease and related disorders~~

cognitive impairments;

b. ~~Resident care techniques, such as assistance with the activities of daily living;~~

- c. Behavior management;
- d. Communication skills; ~~and~~
- e. Activity planning-i and
- f. Safety considerations.

6. Within the first week of employment, employees other than the administrator and direct care staff shall complete one hour of orientation on the nature and needs of residents with ~~dementia/cognitive deficits~~ impairments relevant to the population in care.

7. Doors leading to the outside shall have a system of security monitoring, such as door alarms, cameras, or security bracelets which are part of an alarm system, ~~unless the door leads to a secured outdoor area.~~

8. The facility shall have a secured outdoor area for the residents' use or provide staff supervision while residents with serious cognitive impairments are outside.

9. There shall be protective devices on the bedroom and the bathroom windows of residents with dementia serious cognitive impairments and on windows in common areas accessible to these residents ~~with dementia~~ to prevent the windows from being opened wide enough for a resident to crawl through.

10. The facility shall provide to residents free access to an indoor walking corridor or other area which may be used for walking.

11. Special environmental precautions shall be taken by the facility to eliminate hazards to the safety and well-being of residents with ~~dementia/~~ serious cognitive deficits impairments. Examples of environmental precautions include signs, carpet patterns and arrows which point the way; and reduction of background noise.

12. When there are indications that ordinary materials or objects may be harmful to a resident with a serious cognitive impairment, these materials or objects shall be inaccessible to the resident except under staff supervision.

EXCEPTION: This subsection does not apply when facilities are

licensed for 10 or fewer residents if no more than three of the residents exhibit behavior indicating serious cognitive ~~deficits~~ impairments, when the resident cannot recognize danger or protect his own safety and welfare. The prospective resident or his personal representative shall be so notified prior to admission.

B. In order to be admitted or retained in a safe, secure environment as defined in 22 VAC 40-71-10, a resident must have a serious cognitive impairment due to a primary psychiatric diagnosis of dementia and be unable to recognize danger or protect his own safety and welfare. The following requirements apply when such residents reside in a safe, secure environment. These requirements apply only to the safe, secure environment.

1. Prior to his admission to a safe, secure environment, the resident shall have been assessed by an independent physician as having a serious cognitive impairment due to a primary psychiatric diagnosis of dementia and as being unable to recognize danger or protect his own safety and welfare. The physician shall have an appropriate clinical background in the relevant area of serious cognitive impairments. The physician's assessment shall be in writing and shall be maintained in the resident's record.

2. Prior to placing a resident with a serious cognitive impairment due to a primary psychiatric diagnosis of dementia in a safe, secure environment, the facility shall obtain the written approval of one of the following persons, in the following order of priority:

a. The resident, if capable of making an informed decision;

b. A guardian or legal representative for the resident if one has been appointed;

c. A relative who is willing and able to take responsibility to act as the resident's representative, in the following specified order, (i) spouse; (ii) adult child; (iii) parent; (iv) adult sibling; (v) adult grandchild; (vi) adult niece or nephew; (vii) aunt or uncle;

d. An independent physician who is skilled and knowledgeable in the diagnosis and treatment of dementia if the resident is not capable of making an informed

decision and a guardian, legal representative or relatives are unavailable.

The obtained written approval shall be retained in the resident's file.

NOTE: As soon as one of the persons in the order as prioritized above disapproves of placement or continued placement in the safe, secure environment, then the assisted living facility shall not place or retain the resident or prospective resident in the special care unit.

3. Six months after the completion of the initial and each subsequent uniform assessment instrument as required in 22 VAC 40-71-170, the assisted living facility shall perform a progress review of each resident. The facility shall also perform a progress review whenever warranted by a change in a resident's condition. The progress review shall be performed in consultation with the following persons, as appropriate: (i) the resident, (ii) a responsible family member, (iii) a guardian, (iv) a personal representative, (v) the resident's mental health provider, (vi) the licensed health care professional required in 22 VAC 40-71-630 J, (vii) the resident's physician, and (viii) any other professional involved with the resident. At the time of each annual and each progress review/update, the facility shall make a determination as to whether or not continued residence in the special care unit is appropriate. There shall be written justification of this determination.

4. Therapeutic goals shall be established for each resident. These therapeutic goals shall be based on the resident's assessment and shall be documented on the resident's individualized service plan.

5. In addition to the requirements of 22 VAC 40-71-650 A, scheduled activities shall be designed to promote the achievement of therapeutic goals, as appropriate.

6. Each week a variety of scheduled activities shall be available that shall include, but not necessarily be limited to, the following categories:

a. Cognitive/mental stimulation/creative activities, e.g., discussion groups, reading, reminiscing, story telling, writing;

b. Physical activities (both gross and fine motor

skills), e.g., exercise, dancing, gardening, cooking;

c. Productive/work activities, e.g., practicing life skills, setting the table, sorting coins, making decorations, folding clothes;

d. Social activities, e.g., games, music, arts and crafts;

e. Sensory activities, e.g., auditory, visual, scent and tactile stimulation; and

f. Outdoor activities, weather permitting; e.g., walking outdoors, field trips.

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 40-71-650 A.

7. If appropriate to meet the needs of the resident, there shall be multiple short activities to work within short attention spans.

8. Staff shall regularly encourage, but never force, residents to participate in activities and provide guidance and assistance, as needed.

9. In addition to the scheduled activities required by 22 VAC 40-71-650 A, there shall be unscheduled staff and resident interaction throughout the day that fosters an environment that promotes socialization opportunities for residents.

10. Residents shall be given the opportunity to be outdoors on a daily basis, weather permitting.

11. As appropriate, residents shall be encouraged to participate in supervised activities or programs outside the special care unit.

12. There shall be a designated employee who is responsible for management of the structured activities program. This person shall be qualified as evidenced by training and experience to manage the activities program and shall be on-site at least 20 hours a week.

13. There shall be at least two direct care staff members in each self-contained special care unit at all times that residents are present who shall be responsible for their care and supervision.

14. During trips away from the facility, there shall be sufficient staff to provide sight and sound supervision to residents.

15. Commencing immediately and within one month of employment, the administrator and direct care staff shall attend at least four hours of training in cognitive impairments due to dementia. This training is counted toward meeting the training requirement for the first year. The training shall cover, at a minimum, a basic overview of the following topics:

- a. Information about the cognitive impairment, including areas such as cause, progression, behaviors, management of the condition;
- b. Managing dysfunctional behavior; and
- c. Identifying and alleviating safety risks to residents with cognitive impairment.

16. Within the first year of employment, the administrator and direct care staff shall complete the following training in caring for residents with cognitive impairments due to dementia. This shall also include more in-depth training on the topics in subdivision 15 of this subsection. This training is counted toward meeting the training requirement for the first year.

- a. Assessing resident needs and capabilities and understanding and implementing service plans;
- b. Resident care techniques for persons with physical, cognitive, behavioral and social disabilities;
- c. Creating a therapeutic environment;
- d. Promoting resident dignity, independence, individuality, privacy and choice;
- e. Communicating with the resident;
- f. Communicating with families and other persons

interested in the resident;

g. Planning and facilitating activities appropriate for the resident;

h. Common behavioral problems and behavior management techniques.

17. The training required in subdivisions 15 and 16 of this subsection shall be provided by a trainer with experience and knowledge in the care of individuals with cognitive impairments due to dementia.

18. During the first year of employment, direct care staff shall attend at least 16 hours of training. Thereafter, the annual training requirement specified in 22 VAC 40-71-630 H applies.

19. Within the first week of employment, employees, other than the administrator and direct care staff, who will have contact with residents in the special care unit shall complete one hour of orientation on the nature and needs of residents with cognitive impairments due to dementia.

20. Doors that lead to unprotected areas shall be monitored or secured through devices that conform to applicable building and fire codes, including but not limited to, door alarms, cameras, constant staff oversight, security bracelets that are part of an alarm system, pressure pads at doorways, delayed egress mechanisms, locking devices and perimeter fence gates.

21. There shall be protective devices on the bedroom and bathroom windows of residents and on windows in common areas accessible to residents to prevent the windows from being opened wide enough for a resident to crawl through.

22. The facility shall have a secured outdoor area for the residents' use or provide staff supervision while residents are outside.

23. The facility shall provide to residents free access to an indoor walking corridor or other area that may be used for walking.

24. As of the effective date of these standards, buildings approved for construction or change in use group, as referenced in the BOCA National Building Code, shall have

glazed window area above ground level in at least one of the common rooms, e.g., living room, multipurpose room, dining room. The square footage of the glazed window area shall be at least 8% of the square footage of the floor area of the common room.

25. Special environmental precautions shall be taken by the facility to eliminate hazards to the safety and well-being of residents. Examples of environmental precautions include signs, carpet patterns and arrows which point the way, high visual contrast between floors and walls, and reduction of background noise.

26. When there are indications that ordinary materials or objects may be harmful to a resident, these materials or objects shall be inaccessible to the resident except under staff supervision.

27. Special environmental enhancements, tailored to the population in care, shall be provided by the facility to enable residents to maximize their independence and to promote their dignity in comfortable surroundings. Examples of environmental enhancements include memory boxes, activity centers, rocking chairs, and visual contrast between plates/eating utensils and the table.

DOCUMENTS INCORPORATED BY REFERENCE

U.S. Department of Agriculture, Food Guide Pyramid

BOCA National Building Code

I certify that this regulation is full, true, and correctly dated.

(Signature of Certifying Official)
Sonia Rivero, Commissioner
Virginia Department of Social Services

Date: _____