

STANDARDS AND REGULATIONS FOR LICENSED ~~ADULT CARE RESIDENCES~~
ASSISTED LIVING FACILITIES

22 VAC 40-71

CHILD PROTECTIVE SERVICES

STANDARDS AND REGULATIONS FOR LICENSED ~~ADULT CARE RESIDENCES~~

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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.

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~~"Adult care residence" means any place, establishment, or institution, public or private, operated or maintained 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. 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.~~

"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

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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.

"Assisted living facility" means any 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; (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

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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.

"BOCA®" means the trademark of Building Officials and Code Administrators International, Inc., and it is registered in the U.S. Patent and Trademark Office.

"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;

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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.~~

"Conservator" means a person appointed by the court who is responsible for managing the estate and financial affairs of an incapacitated person and, where the context plainly indicates, includes a "limited conservator" or a "temporary conservator." The term includes a local or regional program designated by the Department for the Aging as a public conservator pursuant to Article 2 (§ 2.2-711 et seq.) of Chapter 7 of Title 2.2 of the Code of Virginia.

"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:

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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.

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"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 such 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

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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~~

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~~residence~~ assisted living facility, directly or indirectly, as an owner, officer, or employee or as an independent contractor with the ~~residence~~ facility.

NOTE: "Physician" is defined later in this section.

"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, occupational therapist, 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.

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"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."

"Mandated reporter" means any person licensed to practice medicine or any of the healing arts, any hospital resident or intern, any person employed in the nursing profession, any person employed by a public or private agency or facility and working with adults, any person providing full-time or part-time care to adults for pay on a regularly scheduled basis, any person employed as a social worker, any mental health professional and any law-enforcement officer, in his professional or official capacity, who has reason to suspect that an adult is an abused, neglected or exploited adult. This is pursuant to § 63.1-55.3 of the Code of Virginia.

"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.

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"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. 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~~ conservator, 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.

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"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.

"Physician" means an individual licensed to practice medicine in any of the 50 states or the District of Columbia.

"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 Food and 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

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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

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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 setting in which the health, safety and welfare of residents are protected, and necessary care and services are provided to maximize individual well-being.

"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.

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

"Special care unit" means a self-contained safe, secure environment 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

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perimeter fence gates. There may be one or more special care units in a facility or the whole facility may be a 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.

"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.

"Therapeutic goal" means the expected outcome of any planned interventions, training, rehabilitation, habilitation, or support services that help a resident obtain or maintain an optimal level of functioning by reducing the effects of a disability or disorder on the physical, mental, behavioral, or social functioning.

"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.

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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 that:

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 Chapter 10 (§ ~~63.1-185~~ 63.1-195 et seq.) of Title 63.1 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

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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 40-71-45. Community services board access.

All assisted living facilities shall provide reasonable access to staff or contractual agents of community services boards, local government departments with policy-advisory community services boards or behavioral health authorities as defined in Title 37.1 of the Code of Virginia for the purposes of:

1. Assessing or evaluating, providing case management or other services or assistance to, or monitoring the care of clients residing in the facility; or
2. Evaluating other facility residents who have previously requested their services.

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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 provide a safe, secure environment for residents.

~~3.~~ 4. The licensee shall protect the physical and mental well-being of residents.

~~4.~~ 5. 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.~~ 6. The licensee shall meet the qualifications of the administrator if he assumes those duties.

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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.

D. Upon initial application for an assisted living facility license, any person applying to operate such a facility who has not previously owned or managed or does not currently own or manage a licensed assisted living facility shall be required to undergo training by the commissioner or his designated agents.

1. The commissioner may also approve training programs provided by other entities and allow owners or managers to attend such approved training programs in lieu of training by the department.

2. The commissioner may also approve for licensure applicants who meet requisite experience criteria as established by the board.

3. The training programs shall focus on the health and safety regulations and resident rights as they pertain to assisted living facilities and shall be completed by the owner or manager prior to the granting of an initial license.

4. The commissioner may, at his discretion, issue a license conditioned upon the owner or manager's completion of the required training.

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.

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

1. The administrator shall be at least 21 years of age.
2. ~~He~~ The administrator shall be able to read, ~~to~~ and write, and ~~to~~ understand this chapter.
3. ~~He~~ The administrator 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 at least one year of 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~~ February 1, 1996, 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. ~~He shall demonstrate basic respect for the dignity of residents by ensuring compliance with residents' rights.~~
6. ~~He~~ 5. The administrator shall meet the requirements stipulated for all staff in subsection A of 22 VAC 40-71-70.
7. ~~He~~ 6. The administrator shall not be a resident of the facility.

C. Any person meeting the qualifications for a licensed nursing home administrator pursuant to § 54.1-3103 of the Code of Virginia may (i) serve as an administrator of an

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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.

D. The administrator shall demonstrate basic respect for the dignity of residents by ensuring compliance with residents' rights.

~~C. E.~~ 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~~ conservator 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. F.~~ 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. G.~~ 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. H.~~ 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.

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

~~H.~~ J. 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.

K. 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; and
4. A position description for the administrator, and if applicable, for the manager.

L. The manager referred to in subdivision K 2 of this section shall meet the following minimum qualifications and requirements:

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1. The manager shall be at least 21 years of age;
2. The manager shall be able to read and write, and understand this chapter;
3. The manager shall be able to perform the duties and carry out the responsibilities of his position;
4. The manager 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 at least one year of administrative or supervisory experience in caring for adults in a group care facility;
5. The manager shall not be a resident of the facility; and
6. The manager shall attend at least eight 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 two of the required eight hours of training shall focus on residents who are mentally impaired. Documentation of attendance shall be retained at the facility and shall include title of course, sponsor, date and number of hours.

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

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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 and for mandated reporters, the consequences for failing to make a required report. (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~~ See 22 VAC 40-71-10 for a definition of mandated reporter);
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.

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

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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.

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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.

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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 40-71-130. 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

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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.

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.

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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;

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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.~~);

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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

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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

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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~~

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~~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;

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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:

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- 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 † J regarding weapons.

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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.

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W. Upon admission and upon request, the assisted living facility shall provide in writing a description of the types of staff working in the facility and the services provided, including the hours such services are available.

~~W. X.~~ 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. Y.~~ 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.

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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

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informed as rapidly as possible, but by the close of the business day following discharge, of the reasons for the move.

G. 1. At the time of discharge, except as noted in subdivision ~~5~~ 2 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.~~ a. 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.~~ b. The reason or reasons for the discharge;

~~3.~~ c. The actions taken by the facility to assist the resident in the discharge and relocation process; and

~~4.~~ d. The date of the actual discharge from the facility and the resident's destination;

~~5.~~ 2. 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

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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 (UAI).

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

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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.

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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

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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.

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- 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.

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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;

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5. Towels;
6. Washcloths; and
7. Waterproof mattress covers when needed.

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. All established policies and procedures regarding the rights and responsibilities of residents shall be printed in at least 12-point type and posted conspicuously in a public place in all assisted living facilities. The facility shall include in them the name, title and

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telephone number of the appropriate regional licensing supervisor of the Department of Social Services, the Adult Protective Services' toll-free telephone number, 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 telephone number of the Department for the Rights of Virginians with Disabilities.

~~E.~~ F. 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.~~ G. 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. Any resident who does not have a serious cognitive impairment and an inability to recognize danger or protect his own safety and welfare shall be allowed to freely leave the facility. A resident who has a serious cognitive impairment and an inability to

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recognize danger or protect his own safety and welfare shall be subject to the provisions set forth in 22 VAC 40-71-700 B or C.

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 special care units as provided in 22 VAC 41-71-700 C.

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.

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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 40-71-330. 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.

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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 40-71-360. 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 40-71-410. Do Not Resuscitate (DNR) orders.

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Do Not Resuscitate orders shall only be carried out in a licensed ~~adult care residence~~ assisted living facility when the order, which must be in writing, has been prescribed by a the resident's attending physician, is included in the individualized service plan and there is an employee with a current certification in cardiopulmonary resuscitation (CPR), unless disallowed as provided for in § 63.1-174.3 of the Code of Virginia, or a licensed nurse available to implement the order.

Section 63.1-174.3 of the Code of Virginia states that the owners or operators of any assisted living facility may provide that their employees who are certified in CPR shall not be required to resuscitate any resident for whom a valid written order not to resuscitate in the event of cardiac or respiratory arrest has been issued by the resident's attending physician and has been included in the resident's individualized service plan.

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~~ conservator or guardian of a resident has been appointed (see 22 VAC 40-71-60 ~~C~~ E), 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.

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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~~ facility 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

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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~~ E regarding ~~committees~~ conservators or guardians appointed by a court of competent jurisdiction.

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.

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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.

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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.

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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°-- E
to 120°F.

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

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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 40-71-530. 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~~ 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~~ 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;

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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

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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.

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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.~~ 13 VAC 5-51) 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.

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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.

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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~~ inspector 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;

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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

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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.

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:

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1. Administrators employed prior to ~~the effective date of these standards~~ February 1, 1996, 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 H, 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 H 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.

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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.

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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

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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.

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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.

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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~~ 22 VAC 40-71-260 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.

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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.

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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.

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- 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

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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.

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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.

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

~~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.~~

~~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.~~

A. 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 B or C 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 B of this section.

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

B. The following requirements apply when there is a mixed population consisting of any combination of (i) residents who have serious cognitive impairments due to a primary psychiatric diagnosis of dementia who are unable to recognize danger or protect their own safety and welfare and who are not in a special care unit; (ii) residents who have serious cognitive impairments due to any other diagnosis who cannot recognize danger or protect their own safety and welfare; and (iii) other residents. The following requirements also apply when all the residents have serious cognitive impairments due

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to any diagnosis other than a primary psychiatric diagnosis of dementia and cannot recognize danger or protect their own safety and welfare. Except for special care units covered by subsection C of this section, these requirements apply to the entire facility unless specified otherwise.

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

NOTE: The exception to 22 VAC 40-71-130 C does not apply.

2. During trips away from the facility, there shall be sufficient staff to provide sight and sound supervision to all residents who cannot recognize danger or protect their own safety and welfare.

3. Commencing immediately and within six months of employment, direct care staff shall complete four hours of ~~dementia/cognitive deficit~~ impairment training that meets the requirements of subdivision 5 of this subsection. This training is counted toward meeting the annual training ~~requirements~~ requirement for the first year. Previous training that meets the requirements of subdivision 5 of this subsection that was completed in the year prior to employment is transferable if there is documentation of the training. The documented previous training is counted toward the required four hours but not toward the annual training requirement.

4. Commencing immediately and within three months of employment, the administrator shall complete 12 hours of ~~dementia/cognitive deficit~~ impairment training. This training is

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counted toward the annual training ~~requirements~~ requirement for the first year. Previous training that meets the requirements of subdivision 5 of this subsection that was completed in the year prior to employment is transferable if there is documentation of the training. The documented previous training is counted toward the required 12 hours but not toward the annual training requirement.

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; and
- f. Safety considerations.

6. Within the first ~~week~~ month 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 of residents with serious cognitive impairments who cannot recognize danger or protect their own safety and welfare, such as door alarms, cameras, ~~or~~ constant staff oversight, security bracelets ~~which~~ that are part of an alarm system, ~~unless the door leads to a secured~~

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~~outdoor area~~ and delayed egress mechanisms. Residents with serious cognitive impairments who cannot recognize danger or protect their own safety and welfare shall be provided a safe, secure environment through measures that do not include prohibiting the resident from exiting the facility or any part thereof. Before limiting any resident from freely leaving the facility, the resident's record shall reflect the behavioral observations or other bases for determining that the resident has a serious cognitive impairment and an inability to recognize danger or protect his own safety and welfare.

8. The facility shall have a secured outdoor area for the residents' use or provide staff supervision while residents with serious cognitive impairments who cannot recognize danger or protect their own safety and welfare are outside.

9. There shall be protective devices on the bedroom and the bathroom windows of residents with ~~dementia~~ serious cognitive impairments who cannot recognize danger or protect their own safety and welfare 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~~ that 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 who cannot recognize danger or protect their own safety and welfare.

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Examples of environmental precautions include signs, carpet patterns and arrows ~~which~~ that 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 who cannot recognize danger or protect his own safety and welfare, these materials or objects shall be inaccessible to the resident except under staff supervision.

~~42. 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~~ have serious cognitive ~~deficits~~ impairments, when the ~~resident~~ residents cannot recognize danger or protect his their own safety and welfare. ~~The~~ Each prospective resident or his personal representative shall be so notified prior to admission.

C. In order to be admitted or retained in a special care unit 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 special care unit. These requirements apply only to the special care unit.

1. Prior to his admission to a special care unit, 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 diagnosis shall also include type or etiology. The physician shall be board certified or board eligible in a specialty or subspecialty relevant

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to the diagnosis and treatment of serious cognitive impairments, e.g., family practice, geriatrics, internal medicine, neurology, neurosurgery, or psychiatry. The physician's assessment shall be in writing and shall be maintained in the resident's record. The assessment shall include, but not be limited to, the following areas:

- a. Cognitive functions, e.g., orientation, comprehension, problem-solving, attention/concentration, memory, intelligence, abstract reasoning, judgment, insight;
- b. Thought and perception, e.g., process, content;
- c. Mood/affect;
- d. Behavior/psychomotor;
- e. Speech/language; and
- f. Appearance.

2. Prior to placing a resident with a serious cognitive impairment due to a primary psychiatric diagnosis of dementia in a special care unit, 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;

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d. If the resident is not capable of making an informed decision and a guardian, legal representative or relatives are unavailable, an independent physician who is skilled and knowledgeable in the diagnosis and treatment of dementia.

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 special care unit, then the assisted living facility shall not place or retain the resident or prospective resident in the special care unit.

3. The facility shall document that the order of priority specified in subdivision 2 of this subsection was followed and the documentation shall be retained in the resident's file.

4. 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 review of the appropriateness of each resident's continued residence in the special care unit. The facility shall also perform a review of the appropriateness of continued residence in the unit whenever warranted by a change in a resident's condition. The 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) direct care staff who provide care and supervision to the resident, (vi) the resident's mental health provider, (vii) the licensed health care professional required in 22 VAC 40-71-630 J, (viii) the resident's physician, and (ix) any other professional involved with the resident. The facility shall make a determination as

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to whether continued residence in the special care unit is appropriate at the time of completion of each annual uniform assessment instrument and each review required by this subdivision. The determination and justification for the decision shall be in writing and shall be retained in the resident's file.

5. 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.

6. 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.

7. 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, 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.

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NOTE: These activities do not require additional hours beyond those specified in
22 VAC 40-71-650 A.

8. If appropriate to meet the needs of the resident with a short attention span, there
shall be multiple short activities.

9. Staff shall regularly encourage residents to participate in activities and provide
guidance and assistance, as needed.

10. 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.

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

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

13. There shall be a designated employee responsible for managing or coordinating the
structured activities program. This employee shall be on-site in the special care unit at
least 20 hours a week, shall maintain personal interaction with the residents and
familiarity with their needs and interests, and shall meet at least one of the following
qualifications:

- a. Be a qualified therapeutic recreation specialist or an activities professional;
- b. Be eligible for certification as a therapeutic recreation specialist or an activities
professional by a recognized accrediting body;

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c. Have one year full-time experience, within the last five years, in an activities program in an adult care setting;

d. Be a qualified occupational therapist or an occupational therapy assistant; or

e. Prior to or within six months of employment, have successfully completed 40 hours of department approved training in adult group activities and in recognizing and assessing the activity needs of residents.

NOTE: The required 20 hours on-site does not have to be devoted solely to managing or coordinating activities, nor is it required that the person responsible for managing or coordinating the activities program conduct the activities.

14. The facility shall obtain documentation of the qualifications as specified in subdivision 13 of this subsection for the designated employee responsible for managing or coordinating the structured activities program. The documentation shall be retained in the staff member's file. Written confirmation of department approval of training provided for in subdivision 13 e of this subsection shall also be retained in the staff member's file, as appropriate.

15. When residents are present, there shall be at least two direct care staff members awake and on duty at all times in each special care unit who shall be responsible for the care and supervision of the residents.

EXCEPTION: Only one direct care staff member has to be awake and on duty in the unit if sufficient to meet the needs of the residents, if (i) there are no more than five residents present in the unit, and (ii) there are at least two other direct care staff

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members in the building, one of whom is readily available to assist with emergencies in the special care unit, provided that the health, safety and welfare of residents throughout the building are not endangered.

NOTE: The exception to 22 VAC 40-71-130 C does not apply.

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

17. Commencing immediately and within two months 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 annual training requirement for the first year. The training shall cover the following topics:

a. Information about the cognitive impairment, including areas such as cause, progression, behaviors, management of the condition;

b. Communicating with the resident;

c. Managing dysfunctional behavior; and

d. Identifying and alleviating safety risks to residents with cognitive impairment.

Previous training that meets the requirements of this subdivision and subdivisions 19 and 20 of this subsection that was completed in the year prior to employment is transferable if there is documentation of the training. The documented previous training is counted toward the required four hours but not toward the annual training requirement.

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NOTE: In this subdivision, for direct care staff, employment means employment in the special care unit.

18. Within the first year of employment, the administrator and direct care staff shall attend at least six more hours of training, in addition to that required in subdivision 17 of this subsection, in caring for residents with cognitive impairments due to dementia. The training is counted toward meeting the annual training requirement for the first year. The training shall cover the following topics:

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 families and other persons interested in the resident;

f. Planning and facilitating activities appropriate for the resident;

g. Common behavioral problems and behavior management techniques.

Previous training that meets the requirements of this subdivision and subdivisions 19 and 20 of this subsection that was completed in the year prior to employment is transferable if there is documentation of the training. The documented previous training is counted toward the required six hours but not toward the annual training requirement.

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NOTE: In this subdivision, for direct care staff, employment means employment in the special care unit.

19. The training required in subdivisions 17 and 18 of this subsection shall be developed by:

a. A licensed health care professional acting within the scope of the requirements of his profession who has at least 12 hours of training in the care of individuals with cognitive impairments due to dementia; or

b. A person who has been approved by the department to develop the training.

20. The training required in subdivisions 17 and 18 of this subsection shall be provided by a person qualified under subdivision 19 a of this subsection or a person who has been approved by the department to provide the training.

21. 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.

22. Within the first month 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.

23. 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

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system, pressure pads at doorways, delayed egress mechanisms, locking devices and perimeter fence gates. Residents who reside in special care units shall be provided a safe, secure environment through measures that may include prohibiting the resident from exiting the facility or the special care unit, if applicable building and fire codes are met.

24. 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.

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

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

27. As of October 9, 2001, buildings approved for construction or change in use group, as referenced in the BOCA® National Building Code, shall have a 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 8.0% of the square footage of the floor area of the common room.

28. 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 that point the way, high visual contrast between floors and walls, and reduction of background noise.

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29. 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.

30. 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.

EXCEPTION: A resident's spouse, parent, adult sibling or adult child who otherwise would not meet the criteria to reside in a special care unit may reside in the unit if the spouse, parent, sibling or child so requests in writing, the facility agrees in writing and the resident, if capable of making the decision, agrees in writing. The written request and agreements must be maintained in the resident's file. The spouse, parent, sibling or child is considered a resident of the facility and as such 22 VAC 40-71 applies. The requirements of this subsection do not apply for the spouse, parent, adult sibling or adult child since that individual does not have a serious cognitive impairment due to a primary psychiatric diagnosis of dementia and does not have an inability to recognize danger or protect his own safety and welfare.

DOCUMENTS INCORPORATED BY REFERENCE

U.S. Department of Agriculture, Food Guide Pyramid.

BOCA BOCA® National Building Code/1996.

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