

Office of Regulatory Management  
Economic Review Form

<b>Agency name</b>	State Board of Social Services
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	22VAC 40-73
<b>VAC Chapter title(s)</b>	Standards for Licensed Assisted Living Facilities
<b>Action title</b>	Update Standards to Add Appeal Process for Discharges
<b>Date this document prepared</b>	October 19, 2022 Rev July 5, 2023
<b>Regulatory Stage (including Issuance of Guidance Documents)</b>	Fast-Track (Action 6132/Stage 9853)

**Cost Benefit Analysis**

Complete Tables 1a and 1b for all regulatory actions. You do not need to complete Table 1c if the regulatory action is required by state statute or federal statute or regulation and leaves no discretion in its implementation.

Table 1a should provide analysis for the regulatory approach you are taking. Table 1b should provide analysis for the approach of leaving the current regulations intact (i.e., no further change is implemented). Table 1c should provide analysis for at least one alternative approach. You should not limit yourself to one alternative, however, and can add additional charts as needed.

Report both direct and indirect costs and benefits that can be monetized in Boxes 1 and 2. Report direct and indirect costs and benefits that cannot be monetized in Box 4. See the ORM Regulatory Economic Analysis Manual for additional guidance.

**Table 1a: Costs and Benefits of the Proposed Changes (Primary Option)**

<p>(1) Direct &amp; Indirect Costs &amp; Benefits (Monetized)</p>	<p>Direct Costs:</p> <ul style="list-style-type: none"> <li>Chapter <a href="#">706</a> of the Acts of the General Assembly in 2022 requires the Department of Social Service (DSS) to establish a process for resident appeals of involuntary discharge decisions in an assisted living facility. All changes are mandated by this legislation.</li> <li>The DSS Office of Appeals and Fair Hearings will hire two staff to process assisted living facilities (ALF) involuntary discharge appeals. The two staff are a Senior Hearing Officer and an Administrative Technician. The cost for the staff is \$198,034 for fiscal year 2023 and \$187,708 each year thereafter.</li> </ul> <p>Indirect Costs:</p> <ul style="list-style-type: none"> <li>The DSS Division of Licensing Programs will need to upgrade the licensing information system to track and monitor ALF involuntary discharges and appeals. The estimated one-time cost is \$500,000 for fiscal year 2023.</li> </ul> <p>Direct Benefits: There are no monetizable direct benefits with this change.</p> <p>Indirect Benefits: There are no monetizable indirect benefits with this change.</p>	
<p>(2) Present Monetized Values</p>	<p>Direct &amp; Indirect Costs</p>	<p>Direct &amp; Indirect Benefits</p>
	<p>(a) \$698,034</p>	<p>(b) \$0</p>
<p>(3) Net Monetized Benefit</p>	<p>\$-698,034</p>	
<p>(4) Other Costs &amp; Benefits (Non-Monetized)</p>	<p>Costs:</p> <ul style="list-style-type: none"> <li>There will be initial costs for ALF to update their policies and procedures for the written notice and involuntary discharge requirements of this legislation. While some ALF comply with regulations and the Code of Virginia for discharging residents, there will be cost associated with the appeals. ALF could incur costs for attorney fees for representation during the appeal or for allowing a resident to reside in the facility during the appeal process. Attorney fees for an appeal could range from \$1500-\$4000 depending on the time involved for the appeal. The cost ALF incur depend on the number of appeals, which is unknown since appealing discharges from ALF will be a new process.</li> <li>ALF could incur costs associated for maintaining the health and safety of a resident while continuing to reside in the facility during</li> </ul>	

	<p>the appeal process. It is unknown what these costs would be, and the resident would remain under a resident agreement and would be charged for services.</p> <p>Benefits:</p> <ul style="list-style-type: none"> <li>Residents and their families will benefit by allowing the resident to be maintained at the assisted living facility resulting in consistent care and this will increase the time to locate another appropriate placement if discharge is the result of the appeal.</li> <li>This legislation requires ALF to assist residents and their families with locating to another facility, which will increase the likelihood of finding the appropriate facility to meet the residents' needs.</li> </ul>
(5) Information Sources	2022 Special Session I, State Budget, Conference Report, <a href="#">Item 348 #1c</a>

**Table 1b: Costs and Benefits under the Status Quo (No change to the regulation)**

(1) Direct & Indirect Costs & Benefits (Monetized)	<p>Direct Costs: There are no costs by maintaining the status quo for continuing to have no appeal process for ALF residents that are involuntary discharged.</p> <p>Indirect Costs: There are no monetizable indirect costs with this maintaining the status quo.</p> <p>Direct Benefits: There are no monetizable direct benefits with maintaining the status quo.</p> <p>Indirect Benefits: There are no monetizable indirect benefits with maintaining the status quo.</p>	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) \$0	(b) \$0
(3) Net Monetized Benefit	\$0	
(4) Other Costs & Benefits (Non-Monetized)	<p>Costs:</p> <ul style="list-style-type: none"> <li>Maintaining the status quo of not having an appeal process does not allow the family to address and resolve problems with the facility and there is no way for the resident and family to contest the discharge.</li> </ul> <p>Benefits:</p> <ul style="list-style-type: none"> <li>There are no non-monetized benefits associated with maintaining the status quo.</li> </ul>	

(5) Information Sources	
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**Impact on Local Partners**

Use this chart to describe impacts on local partners. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

**Table 2: Impact on Local Partners**

(1) Direct & Indirect Costs & Benefits (Monetized)	<p>Direct Costs:</p> <ul style="list-style-type: none"> <li>As of June 1, 2023, there are five ALF operated by local partners. Direct costs for local partners would be record keeping and to update the facility’s procedures on discharges. It is anticipated that cost would be absorbed by current staff.</li> <li>The appeal process for involuntary discharge could result in the locally operated ALF to incur costs for any attorney fees if there are appeals and to maintain the resident’s health and safety during the appeal. Attorney fees for an appeal could range from \$1500-\$4000 depending on the time involved for the appeal. There is no information to formulate how many involuntary discharges will occur and how many of those involuntary discharges will be appealed.</li> </ul> <p>Indirect Costs: There are no monetizable indirect costs.</p> <p>Direct Benefits: There are no monetizable direct benefits.</p> <p>Indirect Benefits: There are no monetizable indirect benefits.</p>	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) \$0-See above (1)	(b) \$0
(3) Other Costs & Benefits (Non-Monetized)	There is no other non-monetized costs and benefits.	
(4) Assistance	The DSS will provide the staff to administer the appeal process. No other assistance will be provided to local partners.	
(5) Information Sources		

**Impacts on Families**

Use this chart to describe impacts on families. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

**Table 3: Impact on Families**

(1) Direct & Indirect Costs & Benefits (Monetized)	<p>Direct Costs: There is no direct costs to families.</p> <p>Indirect Costs: There is no indirect costs to families.</p> <p>Direct Benefits: There is no direct benefits to families.</p> <p>Indirect Benefits: There is no indirect benefits to families.</p>	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) \$0	(b) \$0
(3) Other Costs & Benefits (Non-Monetized)	<p>There are no non-monetized costs to the families.</p> <p>Benefits:</p> <ul style="list-style-type: none"> <li>• The appeal process will allow residents and families more time for discharge planning, resulting in finding the appropriate placement to meet the resident’s needs.</li> <li>• The appeal process will allow any issues or problems to be addressed and remedied to allow the resident to continue to reside in the facility to prevent placement disruption and consistent services.</li> </ul>	
(4) Information Sources		

**Impacts on Small Businesses**

Use this chart to describe impacts on small businesses. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

**Table 4: Impact on Small Businesses**

(1) Direct & Indirect Costs & Benefits (Monetized)	<p>Direct Costs:</p> <ul style="list-style-type: none"> <li>• As of June 1, 2023, there are 565 ALF with five of the facilities being operated by local agencies. DSS does not collect information on whether the facilities are small businesses but estimates that over half of the ALF are small businesses.</li> <li>• The appeal process for involuntary discharges could result in ALF to incur costs for any attorney fees and to maintain the resident’s health and safety during the appeal. Attorney fees for an appeal could range from \$1500-\$4000 depending on the time involved for the appeal.</li> </ul>
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	<p>There is no information to formulate how many involuntary discharges will occur and how many of those involuntary discharges will be appealed.</p> <p>Indirect Costs: There are no monetizable indirect costs.</p> <p>Direct Benefits: There are no monetizable direct benefits.</p> <p>Indirect Benefits: There are no monetizable indirect benefits.</p>	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) \$0-See above (1)	(b) \$0
(3) Other Costs & Benefits (Non-Monetized)	There are no non-monetized cost and benefits.	
(4) Alternatives	There is no alternative since the requirement for the resident’s right to appeal is from Chapter <a href="#">706</a> of the Acts of the General Assembly (2022)	
(5) Information Sources		

**Changes to Number of Regulatory Requirements**

**Table 5: Regulatory Reduction**

For each individual action, please fill out the appropriate chart to reflect any change in regulatory requirements, costs, regulatory stringency, or the overall length of any guidance documents.

*Change in Regulatory Requirements*

<b>VAC Section(s) Involved</b>	<b>Initial Count</b>	<b>Additions</b>	<b>Subtractions</b>	<b>Net Change</b>
430	27	20	1	19
	8 R/S 19 R/D	17 R/S 1 G/S 2 R/D	-1 R/D	17 R/S 1 G/S 1 R/D
435-New section	0	12	0	12
		10 R/S 2 R/D		10 R/S 2 R/D

R/S Regulant/Statutory; R/D Regulant/Discretionary; G/S Governing Agencies/Statutory

*Cost Reductions or Increases (if applicable)*

<b>VAC Section(s) Involved</b>	<b>Description of Regulatory Requirement</b>	<b>Initial Cost</b>	<b>New Cost</b>	<b>Overall Cost Savings/Increases</b>

*Other Decreases or Increases in Regulatory Stringency (if applicable)*

<b>VAC Section(s) Involved</b>	<b>Description of Regulatory Change</b>	<b>Overview of How It Reduces or Increases Regulatory Burden</b>