Virginia Regulatory Town Hall

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Proposed Regulation
Agency Background Document

Agency name	State Board of Social Services
Virginia Administrative Code (VAC) citation	22VAC40-72
Regulation title	Standards for Licensed Assisted Living Facilities
Action title	Licensed Assisted Living Facility Regulation Comprehensive Revision
Date this document prepared	February 21, 2013

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 14 (2010) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual.*

Brief summary

In a short paragraph, please summarize all substantive provisions of new regulations or changes to existing regulations that are being proposed in this regulatory action.

This regulatory action is a joint action to repeal the existing regulation, 22VAC40-72, and establish a comprehensive new regulation, 22VAC40-73, for licensed assisted living facilities. The comprehensive new regulation is intended to (1) improve clarity, (2) incorporate improvements in the language and reflect current federal and state law, (3) relieve intrusive and burdensome requirements that are not necessary, (4) provide greater protection for residents in care, and (5) reflect current standards of care. Major components of the new regulation include general provisions; administration and administrative services, personnel; staffing and supervision; admission, retention and discharge of residents; resident care and related services; resident accommodations and related provisions; buildings and grounds; emergency preparedness; and additional requirements for facilities that care for adults with serious cognitive impairments who cannot recognize danger or protect their own safety and welfare. The new regulation was revised based on multiple regulatory advisory panel input, recommendations and feedback, public comment, and Assisted Living Facility Advisory Committee recommendations.

Acronyms and Definitions

Please define all acronyms used in the Agency Background Document. Also, please define any technical terms that are used in the document that are not also defined in the "Definition" section of the regulations.

None.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Your citation should include a specific provision authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency/board/person's overall regulatory authority.

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

The promulgating entity is the State Board of Social Services.

Purpose

Please explain the need for the new or amended regulation by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal, the environmental benefits, and the problems the proposal is intended to solve.

This regulatory action is essential to protect the health, safety and welfare of aged, infirm, or disabled adults who reside in assisted living facilities. The regulatory action is needed to ensure that assisted living facilities provide care, services and a safe environment for an increasingly vulnerable population. In addition, the assisted living facility regulation provides clear criteria for licensees to follow to obtain and maintain their licensure.

The State Board of Social Services adopted 22VAC40-72 in November 2006 and it has amended the regulation five times over the intervening years. Repeal of the existing regulation and adoption of a new regulation will allow greater flexibility to adjust the structure, format, and language to provide increased consistency and clarity. This consistency and clarity will improve both compliance with the regulation and enforcement. It will also allow for a format conducive to the greater protection of residents of the Commonwealth's licensed assisted living facilities, the number of which (both residents and facilities) are expected to significantly increase in the years ahead.

Substance

Please briefly identify and explain new substantive provisions (for new regulations), substantive changes to existing sections or both where appropriate. (More detail about all provisions or changes is requested in the "Detail of changes" section.)

New substantive provisions in the regulation include: (1) 22VAC40-73-100 – Provides for the development and implementation of an enhanced infection control program that addresses the surveillance, prevention and control of disease and infection, (2) 22VAC40-73-160 – Adds to administrator training requirements that administrators who supervise medication aides, but are not registered medication aides themselves, must have annual training in medication administration, (3) 22VAC40-73-210 – Increases the annual training hours for direct care staff, (4) 22VAC40-73-220 – Adds requirements regarding private duty personnel, (5) 22VAC40-73-260 – Increases the number of staff needed with certification in cardiopulmonary resuscitation to one for every 50 residents, (6) 22VAC40-73-280 – Changes an exception (allowing staff to sleep at night under certain circumstances) to one of the staffing requirements to limit its application to facilities licensed for residential living care only, (7) 22VAC40-73-310 – Adds to admission and retention requirements, additional specifications regarding an agreement between a facility and hospice program when hospice care is provided to a resident, (8) 22VAC40-73-325 – Adds a requirement for a fall risk assessment for residents who meet the criteria for assisted living care, (9) 22VAC40-73-490 – Reduces the number of times annually required for health care oversight when a facility employs a full-time licensed health care professional; adds a requirement that all residents be included annually in the health care oversight, (10) 22VAC40-73-540 – Specifies that visiting hours may not be restricted unless a resident so chooses, (11) 22VAC40-73-620 – Reduces the number of times annually for oversight of special diets, (12) 22VAC40-73-750 – Adds a provision that a resident may determine not to have certain furnishings that are otherwise required in his bedroom, (13) 22 VAC40-73-880 – Adds to the standard that in a bedroom with a thermostat where only one resident resides, the resident may choose a temperature other than what is otherwise required, (14) 22VAC40-73-930 – Adds to the provision for signaling/call systems that for a resident with an inability to use the signaling device, this must be included on his individualized service plan with frequency of rounds indicated, (15) 22VAC40-73-980 – Adds antibiotic cream or ointment and aspirin to first aid kit and eliminates activated charcoal, adds requirement for flashlight or battery lantern for each employee directly responsible for resident care, not only for those at night, adds requirement that 48 hours of emergency food and water supply be on-site, (16) 22VAC40-73-1010 – Removes the exception (for facilities licensed for 10 or fewer with no more than three with serious cognitive impairment) that applied to all requirements for mixed population so that it only applies to the staffing requirement, (17) 22VAC40-73-1030 – Increases the training required in cognitive impairment for direct care staff, and except for administrator, other staff, (18) 22VAC40-73-1120 – Increases the number of hours per week of activities for residents in a safe, secure environment, (19) 22VAC40-73-1130 – Specifies that there must be at least two direct care staff members on each floor in each special care unit, rather than in each special care unit, (20) 22VAC40-73-1140 - Increases the number of hours of training in cognitive impairment for the administrator and changes the time period in which the training must be received for both the administrator and for direct care staff who work in a special care unit, also increases training in cognitive impairment for others who have contact with residents in a special care unit.

Issues

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

1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;
2) the primary advantages and disadvantages to the agency or the Commonwealth; and
3) other pertinent matters of interest to the regulated community, government officials, and the public.

If the regulatory action poses no disadvantages to the public or the Commonwealth, please indicate.

The primary advantage of the proposed regulatory action is the increased protection it provides to residents in assisted living facilities. The action is needed to protect the health, safety, and welfare of an increasingly vulnerable population of aged, infirm or disabled adults. The regulation addresses the care, services and environment provided by assisted living facilities.

The new regulation also provides clear criteria for licensees to follow to maintain their licensure and for licensing staff to use in determining compliance with standards and in the implementation of any necessary enforcement action.

In the proposed regulatory action, a fair and reasonable balance has been attempted to ensure adequate protection of residents while considering the cost to facilities. Although some requirements have been increased, others have been eliminated or reduced.

Several areas of the proposed regulations have been of particular interest to assisted living facility providers, provider associations, advocacy groups, licensing staff, and the general public. These areas have been addressed and include: (1) revising requirements for health care oversight to allow more flexibility, (2) adding to provisions for signaling/call systems to better meet the needs of residents who are unable to use a signaling device; (3) prohibiting restrictions on visiting hours, but allowing for facility guidelines for such purposes as security, (4) providing for more staff training to better meet the needs of residents, (5) reducing the frequency of oversight of special diets (6) providing greater flexibility when residents store cleaning supplies or other hazardous materials in their rooms, (7) providing more specific requirements regarding fall risk assessment to prevent or reduce falls by residents, (8) eliminating some requirements relating to personnel practices that are internal business practices of a facility.

The regulation takes into consideration differences in the levels of care, i.e., residential living care and assisted living care, as well as the cost constraints of smaller facilities. The regulation addresses the needs of the mental health population, physically disabled residents, and elderly persons.

Because the assisted living facility industry is so diverse in respect to size, population in care, types of services offered, form of sponsorship, etc., the standards must be broad enough to allow for these differences, while at the same time be specific enough so that providers know what is expected of them.

The new regulation was revised based on multiple regulatory advisory panel input, recommendations and feedback, public comment, and Assisted Living Facility Advisory Committee recommendations.

The regulatory action poses no disadvantages to the public or the Commonwealth.

Requirements more restrictive than federal

Please identify and describe any requirements of the proposal, which are more restrictive than applicable federal requirements. Include a rationale for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.

This regulatory action does not contain requirements that exceed applicable federal requirements.

Localities particularly affected

Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.

No locality is particularly affected by the proposed regulation.

Public participation

Please include a statement that in addition to any other comments on the proposal, the agency is seeking comments on the costs and benefits of the proposal and the impacts of the regulated community.

In addition to any other comments, the board/agency is seeking comments on the costs and benefits of the proposal and the potential impacts of this regulatory proposal. Also, the agency/board is seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include 1) projected reporting, recordkeeping and other administrative costs, 2) probable effect of the regulation on affected small businesses, and 3) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

The Governor completed his review of this regulatory package on 8/3/2015 and provided the following memo:

> *"I have reviewed the proposed regulation on a preliminary basis. While I reserve the right to take action under the Administrative Process Act as the regulation moves forward, I approve the publication of this proposed regulation to the next stage for the purpose of soliciting public comment. Specifically, I would like public comment on and Agency consideration of two possible changes.*
>
> *First, whether assisted living facilities should be required to have Internet capability for the use of residents. Currently, assisted living facilities are required to provide residents access to a telephone, but these regulations have not been changed for many years. The Internet has become such an integral part of everyday life that it may be time to update these regulations to require assisted living facilities in Virginia to have Internet capability. The benefits to resident quality of life could be substantial; however, more information about both the costs and the benefits is needed. I would like the Agency to consider the costs and benefits of requiring Internet capability at assisted living facilities, and I would like public comment on the same. Specific information about cost issues should be included in any public comment that argues the costs of requiring Internet capability are prohibitive.*
>
> *Second, the proposed regulation amends rules regarding direct care staff based on the number per floor, rather than per unit. I would like public comment on and Agency consideration of any alternative ways to implement a common sense requirement based either on the number of residents or some more flexible measure since assisted living facilities vary in their physical design and space"*

Anyone wishing to submit written comments may do so via the Regulatory Town Hall website (**http://www.townhall.virginia.gov**), or by mail, email or fax to Judith McGreal, Virginia Department of Social Services, Division of Licensing Programs, 801 East Main Street, Richmond, Virginia 23219, telephone (804) 726-7157, fax (804) 726-7132, judith.mcgreal@dss.virginia.gov. Written comments must

include the name and address of the commenter. In order to be considered, comments must be received by midnight on the last date of the public comment period.

A public hearing will be held after this regulatory stage is published in the *Virginia Register of Regulations* and notice of the hearing will be posted on the Virginia Regulatory Town Hall website (**http://www.townhall.virginia.gov**) and on the Commonwealth Calendar website (**http://www.virginia.gov/cmsportal3/cgi-bin/calendar.cgi**). Both oral and written comments may be submitted at that time.

Economic impact

Please identify the anticipated economic impact of the proposed new regulations or amendments to the existing regulation. When describing a particular economic impact, please specify which new requirement or change in requirements creates the anticipated economic impact.

Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source, and (b) a delineation of one-time versus on-going expenditures.	There is no projected additional cost for the state to implement and enforce the proposed regulation.
Projected cost of the *new regulations or changes to existing regulations* on localities.	There is no projected cost for localities.
Description of the individuals, businesses or other entities likely to be affected by the *new regulations or changes to existing regulations*.	All licensed assisted living facilities in Virginia are affected by the regulation.
Agency's best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than $6 million.	Currently there are 552 licensed assisted living facilities in Virginia. Our best estimate is that most of these facilities would be considered small businesses.
All projected costs of the *new regulations or changes to existing regulations* for affected individuals, businesses, or other entities. Please be specific and include all costs. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses. Specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the proposed regulatory changes or new regulations.	$240 - for a nurse to assist in development of enhanced infection control program (one time cost) $50 - for medication administration refresher training course for administrators who supervise medication aides, but are not registered medication aides themselves (annual cost) $68 - for additional 6 hours of training for each direct care staff in a facility licensed for residential living care only [per person: $20 for training; $48 for salary ($8 x 6 hours)] (annual cost) $36 - for additional 2 hours of training for each direct care staff in a facility licensed for both residential and assisted living care [per person: $20 for training; $16 for salary ($8 x 2)] (annual cost) $82 - for additional staff person with current certification in cardiopulmonary resuscitation, if needed [$50 for certification; $32 for salary ($8 x 4

	hours)] (cost every two years) $64 - for staff person being awake at night in a facility licensed for both residential and assisted living care in which the person could previously sleep at night ($8 x 8 hours) (cost per day) - $180 - for a reduction of one health care oversight visit (when a facility employs a licensed health care professional full-time) for residential living care residents ($30 x 6 hours) (annual cost savings) -$240 - for a reduction of two health care oversight visits (when a facility employs a licensed health care professional full-time) for assisted living care residents ($30 x 8 hours) (annual cost savings) -$50 - for a reduction of two visits for oversight of special diets, if needed ($25 x 2 hours) (annual cost savings) $8 - for an increase of one hour of training in cognitive impairments for each staff person, other than the administrator and direct care staff, when there is a mixed population (per person: $8 x 1 hour) (one time cost) $60 - for an increase of five hours per week of activities available to residents in a special care unit ($12 x 5 hours) (cost per week) $384 - for an increase in staffing that requires two direct care staff on each floor of a special care unit, rather than in each unit, if needed ($8 x 24 hours x 2 persons) (cost per day per floor) $8 - for an increase of one hour of training in cognitive impairments for each staff person, other than the administrator and direct care staff, when the staff person will have contact with residents in a special care unit (per person: $8 x 1 hour) (one time cost)
Beneficial impact the regulation is designed to produce.	This regulation is designed to ensure the health, safety, and welfare of residents in assisted living facilities.

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action.

Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in §2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.

The new regulation is a comprehensive revision of the current regulation. Because of extensive changes and reorganization, the current regulation is being repealed and this new regulation is being promulgated. The new regulation is the least intrusive and least burdensome alternative available to ensure protection of increasingly vulnerable adults residing in assisted living facilities. In developing this proposal, consideration was given to the necessity, enforceability, reasonableness, and cost impact of the regulation.

Regulatory flexibility analysis

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

Section 63.2-1732 of the Code of Virginia (Code) addresses the authority of the State Board of Social Services to promulgate regulations for assisted living facilities to protect the health, safety, welfare and individual rights of residents of these facilities and to promote their highest level of functioning. This section of the Code specifies content areas to be included in the regulations. Through the Department of Social Services' collaboration with affected constituents (providers, advocates for residents, licensing staff), the proposed regulation represents the best alternative to minimize any adverse impact on an assisted living facility's business while ensuring the protection of adults in care.

Public comment

Please summarize all comments received during the public comment period following the publication of the NOIRA, and provide the agency response.

Commenter	Comment	Agency response
Arlington Commission on Long-Term Care Residences (ACLTCR)	22 VAC 40-72-10 Correction: the State Board of Health or the Department of Mental Health, Mental Retardation and Substance Abuse Services is now the Virginia Department of Behavioral Health and Developmental Services. It appears that that "Mental impairment" was accidentally deleted	The change was made. The definition was not deleted from the standards. There is no need to

	from the Standard. If so, recommend adding it back in: "Mental impairment" means a disability that reduces an individual's ability to reason logically, make appropriate decisions, or engage in purposeful behavior. Also include dementia as part of the definition. Recommend omitting "primary" from the psychiatric diagnosis of dementia. Include "per federal, state, and local health laws and guidance" as part of the definition of "sanitizing."	mention dementia, by itself, as a specify type of psychiatric diagnosis that involves various signs of mental impairment. Language is consistent with the Code of Virginia so no change was made. Definition is more general, no change made.
ACLTCR	22 VAC 40-72-40 Add "Individualized" in front of "service plan" to clarify and remain consistent with the rest of the document.	The service plan has been removed from this standard in the proposed regulations as the criteria for individual service plans is primarily addressed in another section.
ACLTCR	22 VAC 40-72-50 Currently: "If there are plans for a facility to be voluntarily closed or sold, the licensee shall notify the regional licensing office of intent to close or sell the facility no less than 60 days prior to the closure or sale date." We recommend amending the language to include that "… the licensee shall notify the regional licensing office of intent to close or sell the facility in writing…"	A change was made in the proposed regulations to require the licensee to to notify in writing the regional licensing office of intent to sell or voluntarily close the facility no less than 60 days prior to the sale date or closure.
ACLTCR	22 VAC 40-72-55 Licensure (DSS) should approve all disclosure statements prior to distribution. The disclosure should be distributed with the facility's marketing materials. The facility should provide all disclosure updates	When the licensing inspector conducts inspections at the ALF, he is required to review the disclosure initially and any changes on an annual basis. The Code mandates that each ALF prepare and provide a statement to any prospective resident and his legal

	and changes to residents and designated contact persons. Clarify that "the department" is DSS. Also, require that facilities provide written copies to residents and designated contact persons.	representative, if any, prior to admission and upon request; any additional marketing materials distributed would be at the discretion of the ALF. The current regulation requires that the information on the disclosure be kept current. A clarification was made in the proposed regulations regarding the disclosure being provided upon request. There is currently a definition for "Department" which means the State Department of Social Services. The Code mandates that the disclosure be in a format prescribed by the Department. The Department developed a form which is located on the DSS Website http://www.dss.virginia.gov/ All information about the facility must be on the form; therefore it is in writing.
ACLTCR	22 VAC 40-72-90 Include: "such as the use and frequent changing of gloves" as part of the regulations for the infection control program addressing the surveillance, prevention and control of infections. The current standards address the "what" (i.e., infection control program) and appear to be fairly consistent with infection control requirements, albeit at a very general level. It is important that the standards address some of the "who" and "how" of the infection control program. For example, there is no provision for designating a responsible individual for managing the infection control program. Another example, to make best use of scarce resources, the	The proposed changes to this regulation were drafted in conjunction with Virginia Department of Health infection prevention specialists to ensure the regulation is as current as possible. Frequency of the changing of gloves in accordance with current infection prevention practice is included within the requirement although not expressly stated. It must be addressed within the facility's procedures to meet the proposed regulatory requirement. The proposed regulation also requires participation in the development of infection prevention policies, procedures and on-going oversight by a licensed health care professional with expertise in infection prevention. In addition, the regulation requires a trained staff person be designated as a

	infection control program should be based on a risk assessment. Infection prevention and control resources and activities can then be prioritized based on identified risks for the particular facility and its residents. Include new item B: "Management of the infection control program shall be assigned to an individual by the facility administrator." While C.6. requires that performance on the infection control plan shall be monitored, there is a need for the organization to designate an accountable person for the daily management and evaluation of the program. This is one way for the facility's leadership to demonstrate ongoing commitment to an effective infection prevention and control program. Include new item D: "The infection control program is based on an assessment of risks for acquiring and spreading infections." Prioritizing risks helps the organization better target infection prevention and control resources.	"point of contact" for infection prevention in the facility. At this time, risk assessment has not been included in the draft regulation although there is some latitude for the facility to tailor infection control according to their admission policies and resident characteristics. For example, if a facility will not admit residents on contact isolation for an infection with C.Difficile and that is their policy, then they would not need to include procedures for contact isolation. They should, however, be prepared to manage an outbreak of norovirus, for example, since the facility could not prevent the occurrence of that disease through an admissions policy.
ACLTCR	22 VAC 40-72-100 Suggest changing "the next day" to "within 24 hours." Also, there is no indication that the family or guardian will be notified of the incident. Add to Section E that facilities are to provide written notifications of incidents to the resident and designated contact persons, and maintain a copy of the written report in the resident's file.	Change was made to "within 24 hours." The requirements for notification of a serious accident, injury, illness, or medical condition and documentation of the notification are in 450 F.
ACLTCR	22 VAC 40-72-160 A 4	Deleted requirements for items

	Add ", as well as expected ongoing education and training requirements."	included in job description as these are facility internal business practices that should not be regulated by the state.
ACLTCR	22 VAC 40-72-160 C Add "when hired."	Under staff records (290 C), documentation of qualifications for employment was added. Verification of current professional licensing, etc. is also found under staff records.
ACLTCR	22 VAC 40-72-160 D Add "These procedures shall be provided to each employee at the time of hiring and whenever there are changes or updates to these procedures. These evaluations shall be kept in the employee file for a minimum of 2 years following the departure of the employee."	The requirements regarding evaluation of staff performance were eliminated as these are facility internal business practices that should not be regulated by the state.
ACLTCR	22 VAC 40-72-170 B 5 Add after effectively "with staff and residents" (Rationale: All staff should be able to communicate with both the staff and residents.)	Communicating effectively in English to carry out job responsibilities is adequate.
ACLTCR	VAC 40-72-180 B 5 Add after positions "roles and responsibilities of other departments. (Rationale: To ensure staff can refer or ask for assistance when needed.)	An addition has been made to 22 VAC 40-72-180 B requiring the staff orientation to include the facility's organizational structure.
ACLTCR	VAC 40-72-180 C 5 Add after ..control measures "including but not limited to use and frequency of changes gloves in resident care." (Rationale: Often staff thinks of gloves as protecting themselves, not the residents. Especially after toilet assistance, gloves should be tossed.)	Specific infection control measures are addressed in the development of the infection control program as required by 22 VAC 40-72-90.
ACLTCR	VAC 40-72-191 B	All staff being able to communicate in

	Add after write "in English"	English to carry out their job responsibilities includes the administrator, so this is already covered.
ACLTCR	VAC 40-72-191 C Change "by this chapter" to "in this Standard"	Chapter is the proper terminology for regulatory document writing. A definition of chapter has been added to the definition section in the regulations.
ACLTCR	VAC 40-72-191 D 3 Change "administrative" to "management"	Administrative was not changed, as this word is commonly used to refer to administration, including in the Code of Virginia.
ACLTCR	VAC 40-72-201 B Change When an administrator terminates employment" to "When an administrator's employment ends" In the second sentence delete the words "when the administrator terminates employment"	Standard has been revised to reflect the language in the Code of Virginia so ending or terminating employment is no longer used.
ACLTCR	VAC 40-72-201 B 1 In the first sentence, after "resignation" add "or termination" Add "If an acting administrator is appointed this notice must include licensee plans and timeframe to fill the position."	Termination of employment is no longer used (see agency response immediately above). There is already an established timeframe for how long a facility may be operated by an acting administrator.
ACLTCR	VAC 40-72-201 C 1 Make the first responsibility be "Oversee and ensure proper care of residents in accordance with this standard."	Added responsibility to ensure that care is provided to residents in a manner that protects their health, safety and well-being.
ACLTCR	VAC 40-72-201 C 2 Change "Chapter" to "Standard"	Chapter is the proper terminology for regulatory document writing. A definition of chapter has been added to the definition section in the regulations.
ACLTCR	VAC 40-72-201 H 2	A requirement has been added to post

	Add "Schedule shall be posted where it is visible by visitors and residents."	the name of the current on-site person in charge in a place conspicuous to the residents and the public. (325)
ACLTCR	VAC 40-72-210 D Add at the beginning of the first sentence "For both residential and assisted living" (Rationale: This is clarified in other paragraphs, but has not been consistent throughout the standard.)	Unless a standard notes that it applies to a specific level of care, the standard applies to all facilities. The reference to level of care throughout the standards has been changed to the singular in respect to facilities for purpose of clarity.
ACLTCR	VAC 40-72-210 D 2 Delete. (Rationale: This should not be an exception for the Administrator to be trained in medication administration.)	The exception was not deleted because the supervision of the medication aides is adequate.
ACLTCR	VAC 40-72-220 A 8b Add after write "English". Also, change "chapter to "standards"	All staff being able to communicate in English to carry out their job responsibilities includes the manager, so this is already covered. Chapter is the proper terminology for regulatory document writing. A definition of chapter has been added to the definition section in the regulations.
ACLTCR	VAC 40-72-220 A 8d 2 Change "40 or fewer" to "40 or more"	This change has been made.
ACLTCR	VAC 40-72-220 A 8d 3 Change "administrative" to "management"	Administrative was not changed, as this word is commonly used to refer to administration, including in the Code of Virginia.
ACLTCR	VAC 40-72-220 A 10 Change "at least four of the required 16 hours" to "an additional four hours to the required 16 hours (total **20** hours)" (Rationale: This population is growing and more training is needed to ensure understanding.)	The hours of required training have been increased to 20.

ACLTCR	VAC 40-72-220 A 11 Change "policies and procedures that describe how the administrator shall oversee" to "standard operating procedures to assist the administrator in" (Rationale: To allow the Administrator some flexibility on "how" they will manage while following the SOPs.)	Changed to a plan that describes how the administrator will oversee… and deleted written policies and procedures. This allows for more flexibility.
ACLTCR	VAC 40-72-250 Add "H. Contract staff shall meet the qualifications of the employed staff.	The definition of staff in the regulations specifically includes those individuals hired through a contract to provide services for the facility.
ACLTCR	VAC 40-72-250 C Change "within 30 days" to "within 7 days" Also, after "employment" add "or contract placement" (Rationale: 30 days seemed excessive. Many places are using Contract personnel, so their training needs to be specified. The standards do not appear to require that a facility develop and implement a process to periodically assess direct care staff competency. The qualifications and training are a good start, but are there valid and feasible methods for evaluating the competence of ALF direct care staff**?** **[COMMENT – THIS IS UNDER 160 FOR PERFORMANCE TO BE EVALUATED.]**	The training has to be completed within two months of employment. The definition of direct care staff was changed to use the word staff instead of employees. The definition of staff in the regulations specifically includes those individuals hired through a contract to provide services for the facility. The requirements regarding evaluation of staff performance were eliminated as these are facility personnel matters that should not be regulated by the state.
ACLTCR	VAC 40-72-260 A 2 Change "two of the required eight hours" to two additional hours to the required eight hours". (Rationale: We believe training is needed to improve care.) Change "resident who is mentally	The change in training hours has been made. Mental impairment is currently

	impaired" to "presenting issue of the resident" **If leaving "mentally impaired" it needs to be defined.**	defined in 22 VAC 40-72-10.
ACLTCR	VAC 40-72-260 B 2 Change four of the required 16 hours" to "four additional hours to the required 16 hours (total **20** hours)"	The hours required have been changed to 18.
ACLTCR	VAC 40-72-280 A 2 Add "and sign a confidentiality agreement."	22 VAC 40-72-280 F will be edited to require volunteers to sign and date a statement that they received and understand the information received during their orientation, which includes confidentiality.
ACLTCR	VAC 40-72-280 B Change "without the permission of " to "without a criminal record clearance"	No action taken. The regulation as currently written mirrors the Code of Virginia language pertaining to volunteers in ALFs contained in § 63.2-1720 H. To require a Central Criminal Records Exchange check on each volunteer would be cost prohibitive for facilities and would likely limit volunteer activity to the detriment of residents.
ACLTCR	VAC 40-72-300 C 1 Are these statements still necessary? If so, is 60 days reasonable?	Statement has been removed in proposed regulations.
ACLTCR	VAC 40-72-300 C 2 Are these statements still necessary? If so, is 60 days reasonable?	Statement has been removed in proposed regulations.
Margaret Johnston, Virginia Resident	VAC 40-72-320 **Staffing Requirements** Staffing requirements should be better defined. Some facilities maintain the same number of staff even as the needs of the residents increase. Our ALF residents are increasingly more frail, ill, and cognitively impaired,	No action taken. The regulation as written requires ALFs to maintain a written plan that specifies the number and type of direct care staff required to meet the routine and special needs of residents in care. The regulation requires the plan to be directly related to actual resident acuity levels and individualized care needs.

	conditions that would previously have required nursing home placement. These residents are most vulnerable to medication errors, sub par care and neglect. Better staffing requirements would make our most vulnerable residents safer.	
ACLTCR	VAC 40-72-320 We recognize that Virginia law does not require a certain staffing ratio to resident, but would like to see a better definition for adequate and sufficient. Though this section follows the law, it needs additional guidance on staffing and supervision.	No action taken. The regulation specifically requires staffing to "attain and maintain the physical, mental and psychosocial well-being of each resident as determined by resident assessments and individualized service plans." This comment will be included with other issues being considered for issuance of technical assistance.
ACLTCR	VAC 40-72-320 B Recommend clarification of the last sentence, "This plan will not be fee-based but shall be directly related to actual resident acuity levels and individualized care needs." Recommend adding, "the plan will be provided to resident, and designated contact person.	The language "will not be fee based but" has been stricken in this regulatory revision. No other action is being taken. This regulation requires the ALF to maintain one plan for the facility. The plan may contain confidential medical information related to individual residents. Sharing the plan with all residents would present HIPAA confidentiality issues. If required to provide copies of the plan to residents, the plan would be less useful because critical medical information could not be included without violating HIPAA. Additionally, as the routine and direct care needs of the residents change, it is anticipated that the plan will be amended. The cost to redistribute the plan each time would be burdensome. The cost of distributing the plan could influence a facility's decision whether to update the plan to the detriment of residents.
ACLTCR	VAC 40-72-320 C	What would be considered "adequate" is variable depending on the facility,

	Recommend adding that the approved plan includes staffing and supervision requirements.	its residents, and the layout of the facility.
ACLTCR	VAC 40-72-320 D Recommend deleting the exception. If the RAP feels the exception is required, recommend lowering the 19 or fewer, to 10 or fewer.	The exception has been eliminated for the vast majority of facilities so that it is applicable ONLY to residential living facilities. Residential living facilities represent a small percentage of licensed facilities. The exception is a cost saving measure for small residential living facilities and complies with § 63.2-1732, which charges the State Board of Social Services with taking into consideration cost constraints of smaller operations in complying with regulations. These small facilities are often run by the licensee in licensee's home. The exception allows the licensee to sleep at night, if none of the residents have care needs that require someone to be awake, and forego the expense of hiring someone to be awake when residents do not need assistance.
ACLTCR	VAC 40-72-330 A Recommend adding after Procedures shall be established ", reviewed with staff and provided to staff	22 VAC 40-72-330 A was revised to state "Procedures shall be established <u>and reviewed with staff</u> for communication among…."
ACLTCR	VAC 40-72-340 G 12 This section provides that a facility shall not admit or retain individuals "whose physical or mental health care needs cannot be met in the specific assisted living facility as determined by the facility." This section, tracking the language of the statute, offers no guidance to residents, their families or to facility staff on what is intended by "care needs cannot be met." It allows facilities to make determinations without specifying any further reason.	No action taken. The guidance suggested in this comment would more appropriately be addressed in technical assistance, which could provide examples and not be limited by the brevity of the regulatory format. This comment will be included with other issues being considered for issuance of technical assistance.

	It opens a wide doorway to refusal or discharge of residents on a purely subjective basis – unlike the other items listed in (G) which are very specific. We recommend it be clarified.	
ACLTCR	VAC 40-72-390 A This section provides that an admission agreement between the resident and the licensee or administrator must be signed "at or prior to the time of admission." Residents or their legal representatives need time to review the contract, and need the opportunity to secure further review by a lawyer. We recommend the section should specify a designated number of business days, such as five business days, in advance of signing or admission, unless waived by the resident or legal representative, or unless the admission is an emergency.	A requirement was added to the proposed regulations that requires the disclosure statement to include a notation that additional information about the facility that is included in the resident agreement is available upon request. The addition of this standard will allow the prospective resident and his legal representative the opportunity to receive information regarding the resident agreement when they receive the disclosure, which would be in advance of the admission date.
ACLTCR	VAC 40-72-410 This section provides that facilities must develop and follow a bed hold policy for cases in which a resident temporarily leaves, as for a hospital stay. Residents and families need to understand the facility's bed hold policy at the time of the move. While notice of the bed hold policy is required to be in the admissions agreement, the resident or legal representative should receive a brief notice in plain language at the time of the move.	There is no action needed as the bed hold policy is required to be included in the admission agreement.
ACLTCR	VAC 40 72-420 This section provides for notice of discharge to residents or their legal	There is no action needed. While the ALF regulations do not specifically address involuntary discharge, standards 22 VAC 40-72-420 E and F

	representatives. Such notices should be in plain language and should be acknowledged by the resident or legal representative. In cases of involuntary discharge, a copy of the notice should be provided to the long-term care ombudsman.	address the requirements for emergency discharges. The long-term care ombudsman is not specifically listed as a person that must be informed of the emergency discharge; however, in addition to who must be informed of the discharge, a change in the standard also lists, "any other persons, as appropriate," which could include the long-term care ombudsman, if appropriate.
ACLTCR	22 VAC 40-72-430 B The UAI shall be completed within 90 days prior to the date of admission to the assisted living facility except that if there has been a change in the resident's condition since the completion of the UAI that would affect the admission. In such cases, the UAI shall be updated within two weeks of the event affecting admission.	The Code of Virginia mandates that the UAI be completed ninety days prior to such admission to the ALF unless there has been a change in the resident's condition within that time which would affect the admission. Based on the requirements of the Code, no changes are warranted to the ALF regulation regarding this matter.
ACLTCR	22 VAC 40-72-430 E If a resident's needs cannot continue to be met by the facility, or the assessor determines that placement in the facility is no longer in the best interest of the resident, the assessor shall document the reasons for such an assessment, and propose at least two alternatives for continued care. The reasons for discharge shall be limited to those in the disclosure agreement or contract, as required by the law, or as recommended by a licensed physician or psychologist.	There is no action needed; if the assessor determines that a resident does not have the appropriate level of care for continued stay in an assisted living facility based on the information in the UAI, the facility is then responsible to begin discharge planning immediately and notify the resident and appropriate others of the reason for the discharge per the requirements of 22 VAC 40-72-420. The facility is required to assist the resident and his legal representative, if any, in the discharge or transfer process; it would not be the qualified assessor's responsibility to provide alternatives for continued care.
ACLTCR	22 VAC 40-72-440 Families should be encouraged to	There is no action needed as the requirement for family participation in the ISP exists in the current

	participate in meetings concerning the plan if there is a confidentiality waiver.	regulations. The proposed regulations reorganized the current 22 VAC 40-72-440 standard; however, the language requiring the licensee/ administrator or designee to develop/review/update the ISP in conjunction with the resident, and as appropriate, with the resident's family, legal representative, direct care staff members, case manager, health care providers, qualified mental health professionals, or other persons remained the same. Technical Assistance for ALFs indicates that the ALF is to make reasonable attempts to contact these persons at each development/review/update stage, and even if they cannot be physically present at the facility, try to involve them in the development/ review/update of the ISP through other means, such as the phone, email, fax, etc.
ACLTCR	22 VAC 40-72-440 Add item J: Any changes to the individualized service plan shall be distributed as appropriate within one day of the change (i.e., dietary changes to kitchen manager and staff). Add item K: A copy of the individualized service plan, and any subsequent changes to the plan, shall be sent to the resident, and other persons as designated by the resident. Also, per 460-3(a), when a resident is unable to participate in making appropriate arrangements, the resident's family, legal representative, designated contact person, cooperating social agency or personal physician shall be notified of the need. Add item L: There should be a care	There is no action needed regarding the recommendation to require the ISP to be distributed as appropriate, within one day of a change to the ISP as the current regulations specifies that extracts from the plan may be filed in locations specifically identified for their retention. The proposed regulations include a requirement that a current copy of the ISP shall be provided to the resident There is no action needed regarding the ISP to be reviewed on a quarterly basis. There has been a proposed change that will require that on the day of admission, unless an ISP is completed as required in this section, a preliminary plan of care shall be developed to address the basic needs of the resident, which adequately

	planning meeting every three months per best practices.	protects his health, safety, and welfare. In addition, the standard requires the ISP to be reviewed and updated at least once every 12 months and as needed as the condition of the resident changes. This is consistent with the requirements for the UAI updates, which are mandated by Code.
Margaret Johnston, Virginia Resident	22 VAC 40-72-440 A and I **Individual Service Plan Participation** Wording should be very clear that facilities must make efforts to involve family members or legal representatives when the Individual Service Plan (ISP) is developed or reviewed. Also recommend requiring the facility to notify the family members and/or legal representatives whenever the service plan is updated. This will ensure residents, particularly those with dementia, are not signing what they do not understand.	There is no action needed as the requirement for family participation in the ISP exists in the current regulations. The proposed regulations reorganized the current 22 VAC 40-72-440 standard; however, the language requiring the licensee/administrator or designee to develop/review/update the ISP in conjunction with the resident, and as appropriate, with the resident's family, legal representative, direct care staff members, case manager, health care providers, qualified mental health professionals, or other persons remained the same. Technical Assistance for ALFs indicates that the ALF is to make reasonable attempts to contact these persons at each development/review/update stage, and even if they cannot be physically present at the facility, try to involve them in the development/ review/update of the ISP through other means, such as the phone, email, fax, etc.
ACLTCR	22 VAC 40-72-440 I The plan should be reviewed on a quarterly basis. Plan should be based on principles of person-centered planning, maximizing participation of resident.	There is no action needed regarding the ISP to be reviewed on a quarterly basis. There has been a proposed change that will require that on the day of admission, unless an ISP is completed as required in this section, a preliminary plan of care shall be developed to address the basic needs of the resident, which adequately protects his health, safety, and

		welfare. In addition, the standard requires the ISP to be reviewed and updated at least once every 12 months and as needed as the condition of the resident changes. This is consistent with the requirements for the UAI updates, which are mandated by Code Regarding the comment that the, "plan should be based on principles of person-centered planning, maximizing participation of resident," no action is needed as the current standard requires the ISP to 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. Whenever possible, residents shall be given a choice of options regarding the type and delivery of services.
Margaret Johnston, Virginia Resident	22 VAC 40-72-450 **Managing Falls** In memory of my mother who sustained fatal injuries in a fall at an assisted living facility, I propose the following change to VAC 40-72-450 - Personal Care Services and General Supervision and Care. Add: Each resident shall have a fall risk assessment within 72 hours of admission which shall be reviewed and updated after a fall, a change in the resident's condition, or at least once every twelve months. Staff shall discuss the results of the assessment and subsequent reviews with the resident and/or others designated by the resident such as the resident's family member, legal representative, designated contact person, case manager and/or health care providers. The resident and/or	Requirements for a fall risk assessment have been added to the proposed regulations. The requirements include reviews annually, when the condition of the resident changes, and after a fall.

	designated contact person(s) shall be informed of what fall prevention measures are available at the facility, and the individualized service plan shall be updated to include and describe what fall prevention measures will be provided and who will provide them.	
ACLTCR	22 VAC 40-72-450 D Many residents are unable or do not know enough to pull a cord, or call on the phone for an emergency. We need to examine high tech devices that can assist in this area.	Facility management may utilize various devices as needed to improve resident safety. There is nothing that prohibits this in the regulations unless the device meets the definition and criteria for a restraint. There is no need for the Division to address this in a regulation since it isn't prohibited.
ACLTCR	22 VAC 40-72-450 E Add: Each resident shall have a fall risk assessment within 72 hours of admission which shall be reviewed and updated after a fall, a change in the resident's condition, or at least once every twelve months. Staff shall discuss the results of the assessment and subsequent reviews with the resident and/or others designated by the resident such as the resident's family member, legal representative, designated contact person, case manager and/or health care providers. The resident and/or designated contact person(s) shall be informed of what fall prevention measures are available at the facility, and the individualized service plan shall be updated to include and describe what fall prevention measures will be provided and who will provide them. Comment: Residents with cognitive impairment require additional monitoring since they cannot always communicate their needs such as request PRN pain medication when	Due to the changing characteristics of ALF residents over time and the increasing complexity of their care needs, a requirement for a fall risk assessment initially, when the condition of the resident changes, or a minimum of every 12 months thereafter has been added to the regulations. In addition, should a resident sustain a fall, the facility must show documentation of an analysis of the circumstances surrounding the fall and any additional interventions put in place for that resident. This information, including at admission and any updates, should be added to the ISP since this would be part of the resident assessment. The resident and/or the legal representative are included in ISP development so it is not necessary to add this verbiage to the already existing regulations for the ISP. Residents with cognitive impairments should have additional monitoring included in their service plans when their assessments indicate such a need.

	needed.	
ACLTCR	22 VAC 40-72-450 I Propose increasing bathing to three times a week: a. Bathing (at least three times a week, but more often if needed or desired)	No action required as standards allow for "more often if needed or desired" and there are other requirements for on-going assessment of needs and meeting those identified needs.
ACLTCR	22 VAC 40-72-460 Add item 460-C: 6. Any infections or the worsening of infections.	This concern has been addressed by revisions to the infection control requirements.
ACLTCR	22 VAC 40-72-460 Add item 460-D 2: I: The RN shall check periodically with the resident and observe the staff person's work to ensure that the proper procedures are being carried out.	Proposed revisions address supervisory responsibilities, of the delegating RN, including a minimum frequency for direct observation of staff performance and resident outcomes.
ACLTCR	22 VAC 40-72-480 A Recommend this be changed to a licensed physician. Also, is this person to visit each resident or just go through the records? Needs clarification.	No change made regarding licensed physician as each resident has at least one licensed physician (primary care physician) responsible for individual medical care needs. Requiring the health care professional doing facility healthcare oversight to be a physician would be logistically and cost prohibitive. The individual is responsible for general oversight of ALF related care and services not medical management. Proposed revisions do provide more detail related to observation of residents and staff as well as record review.
ACLTCR	22 VAC 40-72-480 A 1. The definition for "licensed health care professional" includes counselors, dentists, and pharmacists, amongst other professionals that do not have the comprehensive medical	This is not physician oversight. The definition of licensed health care professional is a standard Health Profession's definition. It is qualified by practicing within the scope of his profession to narrow the list of qualifications to those who have

	background required to truly assess "the seriousness of a resident's needs or the stability of a resident's condition." It is also unclear how often residents are to be seen. To clarify, the language here should read as follows: "For each resident who meets the criteria for residential living care, the physician, acting within the scope of the requirements of his profession, shall be on-site at least every six months 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."	experience in long term residential care. Revisions have been made to clarify frequency as it relates to the individual resident.
ACLTCR	22 VAC 40-72-480 A 2 The definition for "licensed health care professional" includes counselors, dentists, and pharmacists, amongst other professionals that do not have the comprehensive medical background required to truly assess "the seriousness of a resident's needs or the stability of a resident's condition." It is also unclear how often residents are to be seen. To clarify, the language here should read as follows: "For each resident who meets the criteria for residential living care, the physician, acting within the scope of the requirements of his profession, shall be on-site at least every six months 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."	This is not physician oversight. The definition of licensed health care professional is a standard Health Profession's definition. It is qualified by practicing within the scope of his profession to narrow the list of qualifications to those who have experience in long term residential care. Revisions have been made to clarify frequency as it relates to the individual resident.
ACLTCR	22 VAC 40-72-480 B Recommend changing to Physician	Requiring the health care professional doing facility healthcare oversight to be a physician would be logistically

	from "licensed health care professional." Recommend requiring notification of Physician's findings to the designated contact person.	and cost prohibitive. Notification of designated contact person is not relevant to the purpose of health care oversight.
ACLTCR	22 VAC 40-72-500 If it is deemed necessary that a resident requires mental health services, the designated contact person(s) should be notified by the facility. As noted under the General Comments about the Section on the first page of this feedback document, those who wish to be informed (designated contact persons) should receive the information as requested and appropriate.	No change made. Disclosures of confidential nature may be permitted under signed release of information permission granted by the resident. No change made. Disclosures of confidential nature may be permitted under signed release of information permission granted by the resident.
ACLTCR	22 VAC 40-72-500 B Progress reports should be obtained on a quarterly basis (every three months).	Agency deleted the specific requirement for quarterly progress reports in the proposed and replaced this with a requirement for the establishment of written procedures to ensure communication and coordination between the facility and the mental health service provider.
ACLTCR	22 VAC 40-72-500 D Add: Copies of the progress reports shall be provided to the resident's designated contact persons with appropriate release.	Agency deleted the specific requirement for quarterly progress reports in the proposed and replaced this with a requirement for the establishment of written procedures to ensure communication and coordination between the facility and the mental health service provider.
ACLTCR	22 VAC 40-72-500 E Add: and notify the designated contact person.	A legal representative has to be notified if services cannot be obtained.
ACLTCR	22 VAC 40-72-520 B There should be more hours of scheduled activities. (Rationale: Too	This is a minimum number of hours of required activities. Facilities may choose to offer more hours if desired.

	often activities are just meeting the standards. They are not taking into consideration the differences in abilities of the residents.)	
ACLTCR	22 VAC 40-72-520 G Residents should be able to read the posting – the current month's schedule should be in a font of 14 points or larger.	It is not necessary to require a font size for the schedule.
ACLTCR	22 VAC 40-72-520 G 4 The schedule should also be available on the facility's website so that family members can be informed on what their loved ones are doing.	Not all facilities may have a website. However, if a facility does have a website, they may choose to post the schedule on it if they so desire.
ACLTCR	22 VAC 40-72-550 E The rights and responsibilities should be printed in at least 14-point type. The names, titles, and phone numbers of critical contact persons should be current, and validated or updated every six months.	There is no action needed as the Code of Virginia mandates that rights and responsibilities of residents shall be printed in at least 12-point type. There is no action needed regarding adding a requirement that the information should remain current as the standard specifies what must be posted and if the information is not current, the facility would not be in compliance.
ACLTCR	22 VAC 40-72-580 B 2 Add: If there is an outbreak and as directed by health officials to stop using the dining room.	The section of the regulations related to infection control includes requirements to prevent/control transmission of an infectious agent in the facility when recommended by the Virginia Department of Health. This change requires facilities to work with the VDH when an outbreak occurs and might include closing the dining room based on the health department's assessment and recommendations. It is not necessary to also include this in the section on dining and meal service.
ACLTCR	22 VAC 40-72-580 E	The regulation will be revised to

	Propose an increase to 45 minutes for residents to complete a meal. (This may need to be moved to the training section.) Staff training in choking rescue is a significant concern. Also, there should be age appropriate offerings to accommodate functional limitations such as feeding and the need for assistive devices or help and also chewing consistency.	increase to 45 minutes the minimum amount of time for residents to complete a meal. Training regarding choking is currently included in the feeding assistance portion of direct care staff training. The accommodation of functional limitations of residents is provided for in the regulation, which requires facility compliance with any needs determined by the resident's individualized service plan or prescribed by a physician or other prescriber, nutritionist or health care professional.
ACLTCR	22 VAC 40-72-580 F Recommend adding 3. Residents who require assistance with eating will be accommodated. Help with tasks such as peeling an orange or opening a cream container should be provided for residents who need it. (Assisting residents with eating seems to be required, yet many facilities do not.)	No action taken. The regulation requires that personnel be available to help any resident who may need assistance eating.
ACLTCR	22 VAC 40-72-620 F The term "special diets" is not currently defined. This term should be defined and include not only the nutritional makeup and value of the food, but textures as well. Recommend revising to read: When a diet such as but not limited to diabetic, low sodium, mechanical soft, pureed, etc. is prescribed for a resident by his physician or other prescriber, it shall be prepared and served according to the physician's or other prescriber's orders.	No action needed. Special diets are generally understood to be diets other than a regular diet. The standards already specify that a special diet is prescribed by a physician or other prescriber and that special diets are prepared and served according to the physician's or other presciber's orders.

	(Rationale: This provides examples of diets that are limited by either ingredients or processing.) Comment: Unfortunately this doesn't address that staff is not required to monitor the resident's food choices to ensure they comply with the physician's order.	
ACLTCR	22 VAC 40-72-620 I Water should be immediately accessible and within the residents' reach. Water should be available at all times in the residents' rooms and the dining room.	No action needed. The standard already requires that drinking water be readily available to all residents.
Margaret Johnston, Virginia Resident	22 VAC 40-72-620 I **Thirst** There needs to be stronger language addressing hydration and better recognition and training for thirst. Some medications can cause excessive thirst, and dementia and ill residents are not always able to communicate their desperate need.	No action needed. The standard already requires that direct care staff know which residents need help getting water.
Margaret Johnston, Virginia Resident	22 VAC 40-72-630 A **Medication Management** Require the Medication Management Plan to include methods to identify pharmacy dispensing errors, e.g. mix-ups of drugs with similar names.	The standard (22 VAC 40-72-630 A.5) in the regulation now includes the following; "…Methods for verifying that medication orders have been accurately transcribed to Medication Administration Records (MARs), including within 24 hours of receipt of a new order or change in an order". In order for a facility to meet this requirement, the original doctor's order should be compared to the transcribed information on the MAR for accuracy. When the medication is given, the label on the bottle or pill pack is compared to the MAR. The medication should not be administered unless everything matches. If the

		facility is following proper procedures, errors should be caught before a wrong medication is administered. No additional changes to the regulation itself are warranted.
ACLTCR	22 VAC 40-72-630 A 3 Include "methods to prevent pharmacy errors, especially with similarly named medications."	Refer to comment under "630 A."
ACLTCR	22 VAC 40-72-630 A 8 Recommend defining what is meant by "supervised." In a 6 story building is one nurse on the 1st floor sufficient? Recommend having a supervisor spot check at least once per week to observe, not just check the MAR.	The regulation 22 VAC 40-72-660. 3 defines who is qualified to supervise medication administration staff. Due to the diversity of the ALF community, 22 VAC 40-72-630 A.8 allows for a facility to tailor its' policy according to the facility characteristics and unique needs. Some ALFs may have only a few individuals administering all medications and such frequent supervision wouldn't necessarily be required. To strengthen the requirement, the following was added to this standard; "Methods to ensure that staff who are responsible for administering medications are adequately supervised, including periodic direct observation of medication administration;
ACLTCR	22 VAC 40-72-630 A 9 Facilities are not aware of the proper disposal of medication. Some are still flushing down toilets. Recommend adding "in accordance with Federal Drug Administration guidelines, as drugs should not be flushed down toilets."	Information regarding the proper disposal of medications can be addressed through the Technical Assistance process. There is already a requirement that facilities be in compliance with "relevant federal, state or local laws and other relevant regulations…" There is no information to support that this is a widespread problem.
ACLTCR	22 VAC 40-72-630 A 12 Add item to this section to address	It would be more appropriate to notify the prescribing physician for expiring medications rather than the designated

	when prescriptions expire, that the designated contact person will be notified so the medication can be continued if required. (Particularly for pertinent medication that should be weaned off, not just stopped.)	contact person. Pharmacy laws regulate dispensing medications and require a current, valid physician's order. Facilities are required to contact physicians and/or pharmacies as needed to ensure medications are filled and refilled in a timely manner to avoid missed doses (see 22 VAC 40-72-630 A 4).
ACLTCR	22 VAC 40-72-630 B Recommend adding, "The medication management plan will be available on request to residents, legal representatives and designated contact persons.	The Division respects the autonomy of the providers and must find some balance between its obligation to protect the resident while encouraging free enterprise. This information could be obtained through legal channels when necessary rather than through additional regulation.
Margaret Johnston, Virginia Resident	22 VAC 40-72-660 3 **Medication Management** Increase supervision or require periodic observation of medication aides (all shifts, all stations) to ensure all medications are administered according to the physician's or other prescriber's instructions and consistent with the Board of Nursing curriculum for registered medication aides. I witnessed numerous medication errors over the years, and primarily by aides who did not take the time to read and fully understand the information for each medication as written in the MAR. All LPNs and medication aides must be required to follow proper medication administration procedures such as not pre-pouring medications, preparing and administering only one resident's medicines at a time, remaining with the resident to ensure pills have been swallowed, and other important guidelines.	There are several requirements included in the standards for the medication management plan which address this in general terms. The regulation cannot include every step of every procedure outlined in the Board of Nursing approved curricula, however facilities can be held accountable for supervisory responsibilities based on the existing requirements.
ACLTCR	22 VAC 40-72-670 B Add "If a physician or other prescriber	Proposed revisions include a statement to cover those medications for which the administration of the

	identifies an ordered medication as being a time-critical scheduled medication (a medication where the early or delayed administration of a dose by greater than 30 minutes may cause harm or result in substantial sub-optimal therapy or pharmacological effect), the medication should be administered within 30 minutes before or 30 minutes after the scheduled time (or more exact timing when indicated, as with rapid-, short-, and ultra-short acting insulin). MAR entries should clearly identify all time-critical scheduled medications to remind staff that these drugs require meticulous attention to timely administration (e.g., administer at the designated time or plus or minus 30 minutes from the scheduled time if appropriate. Pre-pouring for later administration is not permitted." Recommend that labels on pharmacy containers, blister cards and unit packages for medications administered in ALFs include the description (color, shape and imprint) of the medication and the Board of Nursing curriculums for medication administration be changed to require medication aides to verify that the drug in the pharmacy package matches the description on the label.	drug is time/circumstance specific.
Margaret Johnston, Virginia Resident	22 VAC 40-72-670 B **Medication Management** Narrow the +/- one hour window to +/- thirty minutes for medications identified as time-critical by a physician or other prescriber.	It is not reasonable to expect administration of all meds within what would amount to a 1 hour window if the +/- time were decreased to 30 minutes. The +/- one hour window is industry standard in both acute and long-term care settings for those medications for which administration is not time/circumstance specific.
ACLTCR	22 VAC 40-72-670 G 3	These concerns are addressed by other

	Add: The family member or other designated contact person shall be notified as soon as possible. Comment: Currently ALFs are not required to report medication errors to the Licensing Office although some facilities self-report. Comment: Medication administration can be a problem for residents who are unable to recognize when a mistake is made. Some medication aides do not stay with the resident to ensure the medication has been taken. Some do not understand the behavior of residents with dementia, e.g. a resident may refuse to take medications because they can no longer swallow them.	standards.
ACLTCR	22 VAC 40-72-680 A Suggest a 6 month review of all medications, when one or more medication has been altered.	A six month review of all medications is currently required for all residents assessed for assisted living care. A 12 month review is required for residential level of care. A six month review when one or more medications have been altered could significantly increase the cost to the provider for the review. It would also necessitate a tracking system that would further complicate record keeping. It is not felt that the benefit would outweigh the cost to the provider at this time.
ACLTCR	22 VAC 40-72-680 D Add "and next of kin, legal representative, designated contact person, or if applicable, any responsible social agency" as most residents do not have full knowledge and capability to provide adequate information."	The reviewer has the discretion to contact others if necessary. The regulation begins with "If deemed appropriate by the licensed health care professional…" It is not necessary to add this to the actual regulation since there is nothing preventing the reviewer from speaking with others if needed.
ACLTCR	22 VAC 40-72-680 E 8	680 E 8 is written in general terms as

	Add "Including excessive thirst which is caused by some medications." This is particularly necessary for dementia residents who are unable to communicate their thirst or get a staff member's attention to get a glass of water.	appropriate to the wide range of adverse and side effects that may be associated with medications. Excessive thirst is already included as it is a frequently recognized side effect of numerous medications and should be addressed when relevant to a specific resident.
ACLTCR	22 VAC 40-72-700 Comment – Many facilities do not use restraints even when needed due to safety concerns or the required monitoring and documentation. Even passive restraints that provide safety in wheelchairs and beds are not allowed at many of our ALFs. Bed/chair alarms that sound in the resident's room are categorized as restraints and are not used although they could save lives. We recommend encouraging the use of protective devices such as wheelchair lap cushions and seat belts and silent alarms that alert only staff for residents whose physician has authorized the use.	The regulation already includes measures to allow for these devices when certain requirements are met. Individual facilities may choose to be restraint free. The Division will not encourage the use of one type of restraint versus another since devices should be tailored to the individual's needs and used only when other means have failed.
ACLTCR	22 VAC 40-72-710 A 3 What does "available" mean?	The standard was revised and 710 A 3 was removed.
ACLTCR	VAC 40-72-810 Recommend adding a section to address Family Councils. Having family involvement is a crucial ingredient to improving our facilities.	There is no action needed regarding adding a section to address family councils as the standard currently allows that the resident council may extend membership to family members, advocates, friends, and others. Also, there is another standard that specifies that the facility encourage regular family involvement with the resident and provide ample opportunities for family participation in activities at the facility.
ACLTCR	VAC 40-72-820	There is no action needed regarding a requirement as to alternative care for

	Add 1.C. – Shall develop plans in event resident or facility are no longer able to take care of the pet. (Rationale – often a resident dies and the animal is abandoned. Also, facility animals are not always well cared for.)	pets when the resident or the facility is no longer able to provide the care as there are agencies that specifically focus on the protection of animals, should there be such a need for an animal that is abandoned or not well cared for. Also, there is a requirement that pets are well-treated and cared for in compliance with state regulations and local ordinances.
ACLTCR	VAC 40-72-840 Comment – We have concerns on accessibility issues that go beyond the VA USBC, e.g., grab bars in hallways, ease of opening doors, and auto door openers not easy to use.	The standards already require that doors open and close readily, that there be grab bars and handrails in bathrooms, except for residents with independent living status, and that there be handrails on stairways, ramps, elevators, and changes of floor level.
ACLTCR	VAC 40-72-850 J Add "corridors" to where handrails shall be provided.	It is not appropriate to require handrails in corridors in the ALF regulations.
Margaret Johnston, Virginia Resident	VAC 40-72-910 **Calling Systems** Provisions for signaling/call systems should include safeguards for residents who, due to dementia or other reasons, cannot or will not use the pull cords or phone to call for help. These residents should be identified and monitored hourly during certain periods as is the requirement for facilities with fewer than 19 residents. Recommend requiring new facilities and existing facilities that replace signaling systems to install technology that includes silent alarms or other passive signaling systems to alert staff when a resident with dementia needs assistance. These types of considerations were included in the	A new requirement has been added for facilities to have plan for monitoring residents who are unable to use a signaling device. As to requiring facilities to install new technology that could alert staff when a resident with dementia needs assistance, this proposal would need to be studied to weigh the benefits against any downsides.

	Mary Marshall facility, and should be in other facilities as well.	
ACLTCR	VAC 40-72-910 Comments – We have concerns on the response time and how to ensure prompt attention. Also concern that dementia residents are not able to pull/call for help, often not realizing what is going on. Technology has become more reasonably priced and could resolve these issues, if facilities are required to use it. If not, facilities should identify these residents and check on them hourly just like they are required to do in facilities with 19 or fewer.	A new requirement has been added for facilities to have plan for monitoring residents who are unable to use a signaling device. As to requiring facilities to install new technology that could alert staff when a resident with dementia needs assistance, this proposal would need to be studied to weigh the benefits against any downsides.
ACLTCR	VAC 40-72-910 B Add: ”Residents who are unable or unwilling to use the signaling device or are fall risks due to physical or cognitive impairment or other reasons shall be identified, and these residents shall be monitored for emergencies or other unanticipated resident needs by direct care staff making rounds at least once each hour. These rounds shall begin when the resident has gone to bed each evening and shall terminate when the resident has arisen each morning and shall be documented as follows: 1. A written log shall be maintained showing the date and time rounds were made and the signature of the direct care staff member who made rounds. So as not to disturb residents, these rounds are to identify if the resident is trapped on the commode, fallen, up and confused, sick, or other where assistance is needed. 2. Logs for the past two years shall be	A new requirement has been added for facilities to have plan for monitoring residents who are unable to use a signaling device.

	retained. A resident who is monitored with a passive alarm system which alerts staff if assistance is needed without any action from the resident shall be physically observed periodically between the hours of 10:00 PM and 6:00 AM but hourly physical checks are not required."	
ACLTCR	VAC 40-72-930 A Recommend adding, "A copy of the plan shall be provided to the local emergency coordinator."	Local emergency managers are not required to review or maintain a copy of the ALF's emergency preparedness and response plan.
ACLTCR	VAC 40-72-930 A 2 Add, "Bio-hazard" to the list.	This is considered included under "other emergencies."
ACLTCR	VAC 40-72-930 A 3 Add and" after "…responsibilities for"	The standard has been changed to read: "Written emergency management policies and procedures for provision of:…"
ACLTCR	VAC 40-72-930 A 5 Add ", medications, food, and other staples."	This is included in 22 VAC 40-72-930 A 3 f and C 4.
ACLTCR	VAC 40-72-930 C Add "and provision of" after "..shall cover responsibilities for"	The language has been changed to add that emphasis is placed on a person's respective responsibilities.
ACLTCR	VAC 40-72-940 B Require the drawing to be large enough to be seen by people with vision loss.	It is not necessary to require a size limit for the drawing. It is incumbent upon the facility to protect the safety of their residents. If residents need a larger drawing, the facility can provide this for them.
ACLTCR	VAC 40-72-940 D Change the first word in the sentence from "An" to "In"	This change has been made.
ACLTCR	VAC 40-72-950 E	This change has been made and is

	Add "indicate corrective actions taken."	reflected in 22 VAC 40-72-950 D.
ACLTCR	VAC 40-72-960 A One first aid kit does not seem sufficient. Recommend adding a number, perhaps "no less than 3 per floor." or as a percentage of residents. Add "antibiotic cream or ointment."	The standard as written allows the facility some discretion. The complete kit must be "easily accessible to staff." In a large facility with multiple floors/wings/units separated by complex hallways, management may choose to have additional partial or complete kits available to staff. Antibiotic cream or ointment packets have been added to the first aid kit.
ACLTCR	VAC 40-72-960 D Add "Facilities shall have a generator on-site to avoid delays in connecting a temporary generator during a power outage." (Rationale: Recent severe storms in Northern Virginia caused widespread and lengthy power outages. Some facilities without generators on-site were unable to provide temporary generators in a timely manner.	At one time, the ALF regulations required either an emergency generator on-site or a written agreement with a company or other entity to provide a generator within four hours of notification. This was removed in response to provider concerns and clarification from the Joint Commission on Rules.
ACLTCR	VAC 40-72-970 A 3 After "Procedures for making" add "the resident's"	It is implied that this would be information related to the resident experiencing the emergency. This would not be general resident information.
ACLTCR	VAC 40-72-970 C Add ", and resident family member or legal representative. Also share the plan with the local office of emergency management.	The Division respects the autonomy of the providers and must find some balance between its obligation to protect the resident while encouraging free enterprise. This information could be obtained through other channels when necessary rather than through additional regulation. The local emergency management office would not typically be involved

		with the emergency situations described in this standard.	
ACLTCR	VAC 40-72-980 A How is the resident identified? Who decides if a facility has residents with serious cognitive impairments who cannot recognize danger or protect their own safety and welfare? If the Administrator says they do not have residents that fit into this category, who challenges it? The Inspectors may not be qualified or in a position to do so.	If a resident has not been formerly clinically assessed with having serious cognitive impairments who cannot recognize danger or protect their own safety and welfare, then a suspicion or a preliminary screening, e.g., using the UAI, that a resident has some level of cognitive impairments would typically trigger a formal clinical assessment. Licensing has the authority to request an independent clinical assessment by a qualified health care professional for any resident whose mental and/or physical status is questionable.	
Margaret Johnston, Virginia Resident	VAC 40-72-990 **Mixed Population** Some ALFs claim not to have a mixed population so they do not have to meet the additional requirements. This helps the family and resident in that they do not have to move out of their home when the dementia progresses, but the facility does not meet the residents' needs or provide the additional staff, training, and environmental precautions required for facilities with a mixed population. This will help address the needs of the increasing number of frail, ill, and cognitively impaired residents whose conditions would previously have required nursing home placement but who are now residing in ALFs.	Through record reviews, interviews with residents, family members, facility staff, and other sources of information, licensing inspectors are capable of making a determination whether an ALF has a mixed population. If the facility is found to have a mixed population in spite of a claim otherwise, the facility must come into compliance with the regulatory requirement of VAC 40-72-990.	
ACLTCR	VAC 40-72-1000 A The requirement for two direct care staff members to be awake and on duty does not take into consideration the size of the facility. Why should a smaller facility and larger one both have the same requirement? Recommend having 2 per 15 residents	VAC 40-72-1000 A states "there shall be at least two direct care staff members awake and on duty." Also, VAC 40-72-320 A states that the facility "shall have staff … sufficient in numbers to provide services to attain and maintain the physical, mental and psychosocial well-being of each resident…" Therefore, although	

	or some similar specific number.	licensing cannot prescribe a certain number of staff due to not knowing the varying levels of physical and/or mental needs of the residents, licensing does hold the facility responsible for determining its staffing needs based on their assessments of the residents they serve. Having a specific staff-to-resident ratio does not always ensure each resident is receiving what they need.	
Nancy Stillman (family member)	VAC 40-72-1000 A and 1110 A I was amazed to see that the state requirements for care of people with dementia and other special needs were not higher. It seems very unrealistic for three care givers (2 CNA and 1 med tech) to provide quality care and safety for six or seven adults. It is our opinion that central monitoring with a video should be required in all facilities so emergency aid can be given immediately when an event occurs. This would also give families peace of mind to know the exact circumstances of such events. I don't see the facility installing it in the future unless they were required to do so. I know that times are hard in the medical field and that money is tight but these people need someone to look after not only their basic needs but health, welfare and safety. I believe the only way to truly make this happen is to place a limit on caretaker to resident ratio of no more than four to one and to mandate that all facilities have central monitoring of all common areas and outside areas were residents can go unsupervised. I would really like to see changes in the law but I realize that would take a	The primary type of incident that a video monitoring system would capture in common areas would be falls. Licensing has no reason to believe that an emergency response to a resident falling would be significantly sooner for an ALF that has such a system compared to one that does not, due to the fact that a staff member would need to be monitoring the cameras 24-7. The costs incurred by installing and manning this system would not be within the financial means of many ALFs. VAC 40-72-320 A states that the facility "shall have staff … sufficient in numbers to provide services to attain and maintain the physical, mental and psychosocial well-being of each resident…" Therefore, although licensing cannot prescribe a certain number of staff due to not knowing the varying levels of physical and/or mental needs of the residents, licensing does hold the facility responsible for determining its staffing needs based on their assessments of the residents they serve. Having a specific staff-to-resident ratio does not always ensure each resident is receiving what they need.	

	great deal of time.		
Margaret Johnston, Virginia Resident	VAC 40-72-1010 **Training For Dementia Care** More training for dementia care is needed. Recommend specific training requirements including dental hygiene (use of dental adhesive, how to clean dentures, if resident is unable to brush, etc.), personal hygiene (regular toileting, keeping face, hands, feet clean, and insuring nails are clean and trimmed). Direct care staff should be trained to assess the behavior of residents with dementia (often their only way of communicating their needs) and to respond appropriately. Training should also cover managing the anxiety, anger and depression due to dementia and some medications.	These topics are addressed under the curriculum requirements. Additional personal care training is provided in the Direct Care Staff Training curriculum.	
ACLTCR	VAC 40-72-1010 B Recommend changing "four months" to "two months" for direct care staff to attend training. Also in the third sentence, recommend changing the previous training requirement to be completed in "6 months" instead of "in the year prior to employment."	Direct care staff are required to complete additional direct care training within 4 months of employment. Additionally, the training hours have been increased from 4 to 6. It would be burdensome upon the facility to require completion of this training also within a 2 month period. Training within the previous year is an adequate time frame to allow for carryover of training.	
ACLTCR	VAC 40-72-1010 C Recommend adding "Maximize autonomy" and "Role of guardian and other legal representatives."	Language has been added regarding maximizing level of resident's functional ability. Role of guardian, family, legal representative is a facility operational training matter and is not appropriate to be covered in this training.	
ACLTCR	VAC 40-72-1010 D Recommend spelling out that "dining staff" must receive this training.	If dining staff are not considered direct care staff, then this standard would apply to them as written.	

ACLTCR	VAC 40-72-1100 A Recommend increasing the number of hours required from "16" to "20." This is a small number of hours for a full week. Also, activities should be appropriate for a range of resident abilities. Recommend that staff with training be present and interact with the residents.	The required hours of activities has been increased to 21. Requirements for activity development and provision are addressed in this standard.
ACLTCR	VAC 40-72-1120 B Add "8. Role of guardian and other legal representative."	Role of guardian, family, legal representative is a facility operational training matter and is not appropriate to be covered in this training.
Virginia Adult Care Association	General Comment: **Residential only** There are three protections that uphold having affordable and residential housing for those person who suffer from a mental disability. The first is the Olmstead act that calls for the states to make a comprehensive plan that will create "less restrictive" housing. However in 2005 the state of Virginia incorporated some extensive and costly regulations that made residential- setting housing look like mini institutions. The homelike environment was usurp by medication aides, dietitians, healthcare over sites and having nurses as administrator. The second was the jlarc study that showed the cost of these regulations and how it would negatively impact the small business because we were not getting the pay t hat would allow for this increase of restrictive regulations. The jlarc study also stated that homes should be paid at a rate of four thousand a dollars in order to maintain compliance. We are only paid one thousand one hundred and	No action taken. This comment does not address a specific provision of the regulation. The agency held many, many RAP meetings for discussion of these proposed regulations. All of the comments received in the RAP meetings were considered and discussed in detail by Division of Licensing Program staff in the development of the proposed regulation. The regulation will be presented to the agency Regulatory Coordinator, Commissioner and the State Board of Social Services for review and approval to submit the regulatory package for executive review. Public participation is a crucial part of the regulatory process that the agency takes very seriously. Staff drafting the regulations and the entities reviewing and approving the regulations weigh and discuss comments received from parties, the economic impact of the regulations, the purpose of the regulations, and any alternatives to the

	fifty. The third protection is Governor Odonnell Executive Order 14 . This order called for departments to view the impact of costly regulations on small business and intrusiveness. The Department of Social Service clearly disregarded this order. They had rap sessions that used not one idea of small businesses and ignored all pleads for more studies on developing regulations that met the need of the client but also their continuous need for affordable housing.	regulations.
Virginia Adult Care Residents Association	General Comment **Assisted Living (AG) Standards** There is a big problem with the standards. the fact that large, cooperation owned, private pay homes has to fallow the same standards as the small, family owned homes which accept auxiliary grant or AG. This is unfair and unjust. These standards are too strict and intended for large medical base homes, not small homes intended to be more of a social structure. A small residential home with a maximum occupancy of eight residents only received $9,200 giving they have a full house and or receiving all funds from local dss. with these standards they are required to have a staff of dietician cna,rn, med techs. at $10 a hr with 720 hours in a 30 day month payroll is $7,200. Providing 3 healthy meals with snack for 30days to eight grown men, grocery can run around $2,000 a mortgage or rent of $1,200 utilities (lights, water, phone,etc.) around $1,500 not to include repair ,maintence and cleaning supplies, exterminator, offices supplies, or the big one TAXES. the list goes on and on. its hard for anyone to operate a successful business, or even its too top	No action taken. This comment does not address a specific provision of the regulation. The General Assembly, in § 63.2-1732, tasked the State Board of Social Services with "adopting and enforcing regulations to protect the health, safety, welfare and individual rights of residents of assisted living facilities and to promote their highest level of functioning." The General Assembly specifically stated that the regulations "shall take into consideration cost constraints of smaller operations in complying with such regulations and shall provide a procedure whereby a licensee or applicant may request, and the Commissioner may grant, an allowable variance to a regulation pursuant to § 63.2-1703." The cost constraints of smaller operations in complying with regulations are a source of discussion and consideration by staff, the Regulatory Coordinator, Commissioner and State Board of Social Services during the long and thoughtful process of drafting, rewriting, reviewing and approving the regulations. There are several regulations that reduce requirements

	priority providing quality care to the residents with such strict standards and so little funds. Something has to be done about the Assisted Living standards in order for the smaller, local family owned, residential, public pay AG homes to survive.	for smaller facilities. The procedure whereby a licensee or applicant may request an allowable variance is contained in 22 VAC 40-80-230 and 22 VAC 40-80-240. An allowable variance may be requested when a licensee or applicant believes that the existing standard or requirement poses a substantial financial or programmatic hardship and when he believes that either an alternative method of compliance with the intent of the standard that is causing hardship, or the actual suspension of all or part of that standard, would neither endanger the safety or well-being of persons in care nor create a violation of statutes or of the requirements of another regulatory agency. Many allowable variances are approved by the director of the Division of Licensing Programs every year.
Starlette Edmonds, Home To Heart LLC	General Comment **Residental Care Assisted Living Facilities** I would like to see the standards separated for Residental Care and Assisted living due to the level of care provided. Residental Care do not perform the same level of care and should not operate under the same standards. Assisted Living requires more skilled nursing care and is funded at a higher scale that Residental Care. We do not have the funds to provide these services such as 6months oversights, etc. We do not provide the same level of care so these standards need to revised for us. Please take our concerns into consideration.	No action taken. This comment does not address a specific provision of the regulation. The issue of whether residential care facilities should be held to a different standard of care than assisted living facilities is an issue that would need to be addressed by the General Assembly in the Code of Virginia. The Code of Virginia currently does not recognize residential care facilities as a separate entity from assisted living faculties. Currently, “residential living care” is defined as a level of service provided by an assisted living facility. Residential care facilities are, therefore, a type of assisted living facility under Virginia law and subject

		to the same laws and regulations as assisted living facilities. There are several regulations that have lower requirements for facilities licensed only for residential living care.

Family impact

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

The proposed regulatory action will have a positive impact on families in that they will be more confident that their loved family members who are residents of assisted living facilities are receiving the care and services they need and deserve. Moreover, there could be a positive economic impact on families by averting residents' preventable accidents, illnesses, and deterioration of functioning. There could be a decrease of disposable family income, depending upon who is paying for a family member to reside in an assisted living facility.

Detail of changes

Please list all changes that are being proposed and the consequences of the proposed changes. If the proposed regulation is a new chapter, describe the intent of the language and the expected impact. Please describe the difference between existing regulation(s) and/or agency practice(s) and what is being proposed in this regulatory action.

*If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all differences between the **pre**-emergency regulation and this proposed regulation, and (2) only changes made since the publication of the emergency regulation.*

For changes to existing regulation(s), use this chart:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change, intent, rationale, and likely impact of proposed requirements

If a new regulation is being promulgated, use this chart:

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
22VAC40-73-10	Provide definitions for this regulation.		Clarifies the terms for better understanding by providers,

			licensing staff, and the public.
22VAC40-73-20	Provide the legal basis for this regulation and applicability.	Code of Virginia § 63.2-100 § 63.2-1700 et seq. § 63.2-1800 et seq.	Provides information on legal base and applicability of standards to provide clarity regarding pertinence of standards.
22VAC40-73-30	Describe the purpose of the program of care.		Gives general guidelines for care for guidance to providers.
22VAC40-73-40	Describe the duties and responsibilities of the licensee, including ensuring compliance with all regulations and federal, state and local laws.	Code of Virginia § 63.2-1702 § 63.2-1721 § 63.2-1708 § 63.2-1800 Article 1, § 37.2-1000 et seq. 22VAC40-90 22VAC40-80	Outlines responsibilities of licensee to ensure proper responsibility for the facility and care to residents.
22VAC40-73-50	Describe facility disclosure requirements to the prospective resident and legal representative.	Code of Virginia § 63.2-1805	Provides information regarding the facility to prospective residents to enable them to compare facilities and make informed decisions.
22VAC40-73-60	Allow use of electronic records or signatures and set forth requirements for their use including developing and implementing policies and ensuring access is limited.	Code of Virginia Uniform Electronic Transactions Act § 59.1-479 through § 59.1-501	Provides requirements for electronic records to ensure that their use conforms with law and accepted policies and protects integrity and validity.
22VAC40-73-70	Require incident reports within 24 hours of any major incident that negatively affected or threatened the life, health, safety or welfare of a resident; details what a facility must include in an incident report; specifies that a written report must be submitted within 7 days and describes what must be included in the written report.		Provides for licensing staff to be aware of major incidences that negatively affect or threaten residents so that licensing staff can investigate when necessary to ensure protection and proper care of residents.
22VAC40-73-80	State that the resident shall be free to manage his personal finances and funds unless a person or entity is appointed for a resident; the resident may request that the facility assist with the management of personal funds.	Code of Virginia § 63.2-1808 A 3	Provides conditions to apply when a facility assists with the management of resident funds for the proper handling of the resident's money.
22VAC40-73-90	State that no facility administrator or staff person shall act as an attorney-in-		Provides protection to residents regarding their funds in relation to the facility's role as attorney-

	fact or trustee unless the resident has no other preferred designee; sets forth the requirements if the administrator or staff person serves as attorney-in-fact or trustee including documentation and accountability.		in-fact or trustee.
22VAC40-73-100	Provide for infection control measures including who shall develop the policy, annual review, and on-going monitoring of the infection control program.	Code of Virigina § 32.1-37 Centers for Disease Control and Prevention Guidelines Occupational Safety and Health Administration Regulations	Allows for proper infection control measures to prevent or reduce incidences of disease and infection among residents and staff.
22VAC40-73-110	State the qualifications, duties and responsibilities of staff including being respectful, able to speak and write in English, and meet the requirements for background checks.	22VAC40-90	Provides basic qualifications for staff to protect the welfare of residents.
22VAC40-73-120	Describe the requirements for staff orientation and initial training and specify that specified training must occur within the first seven working days of employment; until this orientation and training is completed the staff person must work under the sight supervision of a trained direct care staff person.	Code of Virginia § 63.2-1606 § 63.2-1805	Ensures that staff are knowledgeable about the facility and their responsibilities so that they can provide proper care to residents.
22VAC40-73-130	Require each staff person who is a mandated reporter to report suspected abuse, neglect or exploitation of residents in accordance with § 63.2-1606 of the Code of Virginia.	Code of Virginia § 63.2-1606	Allows for proper investigation and action, if necessary, of reports of suspected abuse, neglect, or exploitation to protect the health and safety of residents.
22VAC40-73-140	Specify the administrator qualifications including age and the ability to read, write and understand these standards, education, experience and licensure.	Code of Virginia § 63.2-1803 § 54.1-3100 et seq. 18VAC95-20 18VAC95-30	Ensures that the administrator has proper qualifications to manage the facility and the care given to residents to protect their health, safety, and welfare.
22VAC40-73-150	Describe administrator requirements and responsibilities; each facility is required to have an administrator of record.	Code of Virginia § 54.1-3103 § 63.2-1803 § 54.1-2400.6	Ensures that there is always a qualified person to provide administration and management of the facility for the benefit of the residents in care.

	Notification requirements are set forth in this standard, as are requirements pertaining to acting administrators.	18VAC95-30	
22VAC40-73-160	Specify the training requirements for administrators, including residential living care only; residential and assisted living care; and administrators who supervise medication aides but who are not medication aides themselves.		Provides for training of administrators in areas necessary to manage a facility to assure adequate knowledge and skills for the benefit of provision of services and care to residents.
22VAC40-73-170	Allow for a shared administrator for smaller facilities and designate the conditions that must be met including serving not more than four facilities with a combined total of 40 or fewer residents within a 30-mile average one-way travel time. Provides when a designated assistant may act in the place of the administrator. Requires each facility to have a manager designated and supervised by the administrator and states the qualifications and requirements that must be met by the manager.		Allows an administrator to serve up to four smaller facilities to provide a cost saving measure for these facilities, while at the same time protecting the residents in care.
22VAC40-73-180	Describe when an administrator may serve as both the administrator of an assisted living facility and nursing home; specify that there shall be a written management plan that addresses the care and supervision of the assisted living facility residents and describe what must be contained in the management plan.	Code of Virginia § 63.2-1803 § 54.1-3103	Allows an administrator to serve both an assisted living facility and a nursing home that are part of the same building as a cost saving measure, while at the same time protecting the residents in care.
22VAC40-73-190	Require a designated direct care staff member in charge on the premises when the administrator or designated assistant or manager is not awake and on duty on the premises; the administrator shall determine the specific		Ensures that there is always someone in charge at the facility for the benefit of other staff and residents.

	duties and responsibilities of the designated direct care staff member in writing.		
22VAC40-73-200	Describe direct care staff qualifications including requiring direct care staff to be at least 18 years of age unless certified in Virginia as a nurse aide and require direct care staff to have met one of seven training requirements within the required time frame.		Ensures that direct care staff have the knowledge and skills to provide care and services to meet the needs of residents.
22VAC40-73-210	Specify training requirements for direct care staff in residential living care only and both residential and assisted living care facilities.		Provides for annual training of direct care staff which enables them to enhance their ability to care for residents.
22VAC40-73-220	Specify requirements for private duty personnel providing direct care or companion services to residents in an assisted living facility.		Specifies requirements for private duty personnel in facilities to ensure proper services are provided to and protect safety of residents..
22VAC40-73-230	Require any resident who performs any staff duties to meet the personnel and health requirements for that position and a written agreement between the facility and the resident.		Assures that residents who perform staff duties are qualified and not forced to assume such duties.
22VAC40-73-240	Specify the requirements for volunteers, including qualifications, documentation by facility, coordination and orientation.	Code of Virginia § 63.2-1720	Allows for the use of volunteers to enhance services for the benefit of residents.
22VAC40-73-250	Specify staff record and health requirements including how long the record must be maintained and the content of the staff record. Requires staff records to be maintained at the facility in a locked area.	Code of Virginia § 63.2-1720	Provides for documentation and verification of staff qualifications, health information and emergency contact for the safety of residents and staff.
22VAC40-73-260	Require first aid certification for direct care staff within 60 days of employment which shall be maintained current. Specify requirements for current CPR certification.		Requires staff who can provide first aid and CPR to residents when needed.
22VAC40-73-270	Specify direct care staff training requirements when aggressive or restrained residents are in care of an		Specifies that staff who care for aggressive or restrained residents have the knowledge, skills, and ability to provide

	assisted living facility.		proper care for the benefit of those residents, who have special needs.
22VAC40-73-280	Specify staffing requirements including requiring staff adequate in knowledge, skills and abilities and in sufficient numbers to provide services to each resident as determined by resident assessments and individualized service plans.	Code of Virginia § 63.2-1803	Ensures that the requirements for staffing are based on the needs of the residents and on emergency considerations to protect the health, safety and welfare of aged, infirm or disabled adults.
22VAC40-73-290	Require a facility to maintain a written work schedule for each shift with an indication of whoever is in charge and post the name of the current on-site person in charge.		Allows for adequate planning to meet staffing requirements and documentation of such and enables staff, residents and the public to know who is in charge at any given time.
22VAC40-73-300	Require procedures to be established and reviewed with staff for communication to ensure stable operations and sound transitions.		Ensures adequate communication among staff so that operation of the facility is stable and so that staff are aware of problems experienced by residents.
22VAC40-73-310	Specify requirements for admission and retention, including a prohibition against admitting or retaining a resident for whom the facility cannot provide or secure appropriate care; who require a level of care of service for which the facility is not licensed, or; if the facility does not have staff in appropriate numbers with the appropriate skill to provide care and service.	Code of Virginia § 63.2-1804 § 63.2-1805 § 63.2-1806 § 63.2-1808 Article 7, § 32.1-162.1 et seq. 12VAC30-10 18VAC90-20-420 (through) 18VAC90-20-460	Makes sure that a facility only admits and retains a resident whose needs it can meet so that the health, safety and welfare of an individual is protected.
22VAC40-73-320	Require physical examination and report by an independent physician within 30 days prior to admission; the contents of the report are enumerated. Requires subsequent tuberculosis evaluations. Allows the department to request a current physical examination or psychiatric evaluation.		Provides information regarding the health of a person that is used in making a decision regarding admission and if admitted, in the care of the resident.
22VAC40-73-325	Specify when a fall risk assessment shall be conducted, reviewed and updated.		Provides information to be used to prevent or reduce resident falls.

22VAC40-73-330	Require that a mental health screening shall be conducted under specified conditions, specify who shall conduct the screening and direct the facility to act if the screening indicates a need for mental health or other specified services.	Code of Virginia § 63.2-1805	Provides mental health information on an individual when appropriate that is used to making a decision regarding admission and to refer a resident to mental health resources when needed.
22VAC40-73-340	Require the facility to obtain certain information and documentation when determining appropriateness of admission for an individual with mental illness, intellectual disability, substance abuse or behavioral disorders.		Provides information for making a decision regarding admission to the facility and if admitted, in the delivery of services so that the resident's needs are met.
22VAC40-73-350	Require the assisted living facility to register with the Department of State Police to receive notice of any sex offender in the area the facility is located and to ascertain prior to admission whether a potential resident is a registered sex offender.	Code of Virginia § 63.2-1732 § 9.1-914 § 9.1-900 et seq.	Provides information to the facility and if desired, to residents regarding sex offenders so that due diligence can be taken for the protection of residents.
22VAC40-73-360	Specify the conditions under which an emergency placement can be made, how long the emergency placement can be without all the requirements for admission being met, and the information the facility must obtain while the resident is in the emergency placement.		Allows for placement in a facility for the benefit of a person when there is an emergency situation, with certain requirements specified for the protection of the health, safety and welfare of the person.
22VAC40-73-370	Specify the requirements that apply to assisted living facilities that provide respite care including a requirement that an ISP be completed prior to the person being admitted for respite care.		Provides requirements for respite care in a facility to protect the health, safety, and welfare of the person in respite care.
22VAC40-73-380	Specify the resident personal and social information that the assisted facility must obtain at or prior to a person's admission.		Assists the facility in providing appropriate care and services to residents and to make proper notifications to other persons when warranted.
22VAC40-73-390	Require a written agreement with the resident/applicant or legal representative at or prior to the time of	Code of Virginia § 63.2-1805 § 63.2-1808	Specifies accommodations, services, and care to be provided to a resident and charges for such, so that the resident knows

	admission to the facility and specifies the contents of the agreement.		what he is to receive and how much it costs; also, acknowledgment that the resident has received certain information about the policies of the facility.
22VAC40-73-400	Require the facility to provide an itemized monthly statement of charges and payments to each resident or their legal representative.		Itemizes charges and payments so the resident has a record of financial transactions and can make sure they are correct.
22VAC40-73-410	Require the facility to provide an orientation for new residents and their legal representative upon admission.	Code of Virginia § 63.2-1803	Allows for basic knowledge regarding the facility upon admission so that the health, safety and welfare of residents is protected.
22VAC40-73-420	Specify that an assisted living facility shall establish procedures and what must be included in the procedures, to ensure that a resident detained by a temporary detention order is accepted back if not involuntarily committed and develop a written bed hold policy.	Code of Virginia § 63.2-1805 § 37.2-809 (through) § 37.2-813 § 37.2-814 (through) § 37.2-819	Enables a resident to return to a facility under certain circumstances.
22VAC40-73-430	Describe the requirements for discharge of residents including discharge planning, discharge statement and assistance that the facility shall offer to the resident and his legal representative.		Provides notice and assistance for a resident who is being discharged to make the process easier and ensures resident receives refunds due.
22VAC40-73-440	Require all residents of and applicants to assisted living facilities be assessed face-to-face using the uniform assessment instrument, and specify when a new assessment shall be made.	Code of Virginia § 63.2-1804 § 63.2-1805 22VAC40-745	Sets forth requirements for the uniform assessment instrument to assure that the needs of residents are properly assessed for admission and retention purposes and to meet the needs.
22VAC40-73-450	Require that a preliminary plan of care be developed to address the basic needs of the resident on the day of admission; a comprehensive individualized service plan (ISP), the contents of which are detailed in this section, shall be completed within 30 days after admission.		Sets forth requirements for an individualized service plan to specify and detail how the needs of a resident are to be addressed and to promote individuality and personal dignity.
22VAC40-73-460	Specify that the facility shall assume general		Provides for the services and care to be given to a resident to

	responsibility for the health, safety and well-being of residents; care provision and service delivery shall be resident-centered; notification is required of any incident of a resident falling or wandering from the premises.		meet his needs, including, as needed, assistance with activities of daily living, ambulation, hygiene and grooming, other functions and tasks.
22VAC40-73-470	Require the facility to ensure that the health care service needs of residents are met; specify that a resident's need for skilled nursing treatments shall be met by the facility's employment of a licensed nurse or a contractual agreement with a licensed nurse, or by a home health agency or by a private duty licensed nurse. Require the facility to develop and implement a written policy to ensure staff is made aware of any life-threatening conditions of residents. Update provisions related to care of residents with a gastric tube.		Provides for the provision of health care services to a resident as needed.
22VAC40-73-480	Specify that facilities shall assure that all restorative care and habilitative service needs of residents are met and require facilities to coordinate with professional service providers and ensure that facility staff that assist with these support services are trained by and receive direction from qualified professionals. Require facilities to arrange for specialized rehabilitative services from qualified personnel as needed by a resident.		Provides for the provision of restorative, habilitative and rehabilitative services to a resident, as needed, to enable him to reach or maintain his highest level of functioning possible.
22VAC40-73-490	Specify health care oversight requirements for assisted living facilities including a requirement that each facility retain a licensed health care professional who has at least two years of experience to provide health		Provides periodic health care oversight to review and monitor health care provided to residents to make sure proper care is being provided and to make recommendations for improvement, when necessary.

	care oversight.		
22VAC40-73-500	Require assisted living facilities to provide reasonable access to staff or contractual agents of community services boards to assess or evaluate residents, provide case management, or monitor care of residents.	Code of Virginia § 63.2-1801 § 37.2-100	Provides for access and services to residents by community services boards or behavioral health authorities to assist in meeting mental health needs of residents.
22VAC40-73-510	Require communication and coordination to secure, for each resident requiring mental health services, the health care professional preferred by the resident, to the extent possible, to assure that the mental health needs of the resident are met.		Makes provisions for meeting the mental health needs of residents.
22VAC40-73-520	Specify the activity and recreational requirements that the facility must meet for residents; state that residents shall be encouraged but not forced to participate.		Provides activities for residents to promote their highest level of functioning and provide opportunities for enjoyment and fulfillment.
22VAC40-73-530	Provide that any resident who does not have a serious cognitive impairment shall be allowed to freely leave the facility and doors leading to the outside shall not be locked from the inside except in a special care unit.		Increases quality of life by ensuring that residents can freely leave the facility, unless they have a serious cognitive impairment.
22VAC40-73-540	Specify that visiting hours shall not be restricted except when it is the choice of the resident; the facility may establish guidelines so that visiting is not disruptive or security compromised.		Increases quality of life by ensures that residents can receive visitors at any time, unless they wish otherwise.
22VAC40-73-550	Provide for resident rights and responsibilities and require the operator or administrator of an assisted living to establish and implement written policies and procedures to ensure the exercise of resident rights.	Code of Virginia § 63.2-1808	Ensures that a facility reviews resident rights with residents and encourages them to exercise their rights.
22VAC40-73-560	Require a facility to establish written policies and procedures for ensuring		Provides for a facility to maintain records necessary to provide appropriate care to residents and

	that information in resident records is accurate and clear and that records are well-organized; specify where and how long records will be retained.		provides for the confidentiality of the records to protect privacy.
22VAC40-73-570	Specify the resident or legal representative may release information from the resident's record to persons or agencies outside the facility and licensee is responsible for making available a form granting written permission to release information; circumstances under which information may be released without written permission are enumerated.		Allows the resident to release information from his records and for the facility to give relevant information to a hospital or emergency medical personnel necessary for his care.
22VAC40-73-580	Specify requirements the facility must meet pertaining to food service and nutrition for residents including for residents with independent living status who have kitchens equipped with a stove, refrigerator and sink.		Ensures that meals are provided in an appropriate manner and nutritional problems are addressed.
22VAC40-73-590	Require at least three well-balanced meals, bedtime and between meal snacks shall be made available for all residents.		Provides for the provision of food, including meals and snacks.
22VAC40-73-600	Specify that the time interval between the evening meal and breakfast shall not exceed 15 hours; there shall be at least four hours between breakfast and lunch and lunch and supper; scheduling shall ensure these time intervals are met for all residents.		Allows for appropriate intervals between meals so that residents do not get too hungry or too full because of spacing of meals.
22VAC40-73-610	Specify facility requirements for meals and snacks including food preferences; dated and posted menus; substitutions to the menu; minimum daily menu and special diets.	U.S. Department of Agriculture Food Guidance System Guidelines Food and Nutritional Board of the National Academy of Sciences Dietary Allowances	Assures that meals are nutritional and balanced for the health of residents, that resident food preferences are taken into consideration when menus are planned, that second servings are available, that special diets are accommodated, and that drinking water is readily available for hydration.
22VAC40-73-620	Require oversight at least every six months of special diets by a dietitian or	Code of Virginia § 54.1-2731	Provides for periodic review of special diets to assess their adequacy, proper preparation,

	nutritionist; oversight must be on-site and meet the specified requirements.	18VAC75-30	and acceptance so that the health of residents is protected and make recommendations, as needed.
22VAC40-73-630	State the resident's religious dietary practices must be respected and religious dietary practices of the administrator or licensee shall not be imposed on residents unless agreed to in the admission agreement.		Allows for a resident to maintain religious dietary practices, but is not forced to observe those of the administrator or licensee.
22VAC40-73-640	Require the facility to have and keep current a written plan for medication management; specify what the plan must include. The plan and subsequent changes must be approved by the department.	Code of Virginia § 63.2-1732	Provides for the development of a medication management plan for a facility to follow to ensure that medications are properly administered to residents.
22VAC40-73-650	Specify when a physician or other prescriber order is necessary; how oral orders shall be handled and transmitted; maintaining orders in the resident's record.		Specifies that a facility only administer medications, provide special diets, or medical treatments with an order from a physician or other prescriber, which protects the health of residents.
22VAC40-73-660	Regulate the storage of medications and dietary supplements prescribed for residents; a resident capable of self-administering medication may be permitted to keep his own medication in an out-of-sight place in his room.		Ensures that medications and dietary supplements are properly stored so that their make-up is not altered and they are protected from improper access, which protects both residents and medications/supplements.
22VAC40-73-670	Regulate the qualifications and supervision of staff who administer medications.	Code of Virginia § 54.1-3408	Ensures that staff who administer medications are qualified to do so and supervised by qualified persons in order to protect the health of residents.
22VAC40-73-680	Regulate who shall administer medications; how medication shall be administered; how sample and over-the-counter medication shall be stored; direct how medication administration shall be documented, including the contents of the medication administration record.		Specifies requirements for medication administration and related documentation to ensure that residents receive the proper medication in a correct and timely manner.
22VAC40-73-690	Require annual review of resident medications for		Requires periodic reviews of medications to look at such

	each resident in residential living care, except for those who self-administer all their medications; require a review every six months of all the medications of residents in assisted living care, except for those who self-administer all of their medications. Specifies what the review will include and certifying the results of the review.		things as interactions with other drugs and food, adverse or unwanted side effects, to make recommendations for addressing any problems that may exist in order to protect the health and welfare of residents.
22VAC40-73-700	Specify the safety precautions that shall be met and maintained when oxygen therapy is provided.		Addresses precautions regarding the use of oxygen to protect the welfare of a resident who receives oxygen therapy and the safety of other residents.
22VAC40-73-710	Prohibit the use of chemical restraints; specify when physical restraints may be used and the conditions for use that must be met.	Code of Virginia § 63.2-1807	Addresses requirements that must be met when restraints are used to protect the safety of residents, although their use is discouraged.
22VAC40-73-720	Specify the conditions under which a licensed assisted living facility may carry out a Do Not Resuscitate Order; require the facility to have a system to ensure that all staff is aware of residents with a valid DNR Order and; mandate that the DNR Order shall be readily available to other authorized persons (such as EMTs). If DNR Orders will not be honored, facility must have a policy and the resident or legal guardian must be notified of the policy prior to admission and sign an acknowledgement.	Code of Virginia § 63.2-1807	Provides for the protection of residents to ensure that DNR Orders are only carried out when specified conditions are met.
22VAC40-73-730	Require the facility to obtain and document certain information from a resident with advance directives such as a Living Will or Durable Power of Attorney; specify what the facility must do if information cannot be obtained.		Specifies information to be obtained by the facility regarding Advance Directives so that the facility can properly assist when warranted.
22VAC40-73-740	Summarize requirements pertaining to personal possessions; each resident shall be permitted to keep reasonable personal		Allows for resident personal possessions to maintain individuality and personal dignity.

	property in his possession and have his own clothing and personal care items. Facilities must develop and implement a written policy to be followed when a resident reports a personal possession is missing.		
22VAC40-73-750	Describe the minimum content of resident rooms and provide that a resident may indicate in writing if he does not want a specified item.		Ensures that residents are provided basic furnishings for their comfort, with flexibility allowed for resident preferences.
22VAC40-73-760	Require that space other than sleeping areas shall be provided for residents; specify minimum content of sitting rooms or recreation areas.		Allows for common areas to be enjoyed by all residents for entertainment, socialization, and dining.
22VAC40-73-770	Require dining areas to have sufficient sturdy dining tables and chairs for all residents.		Ensures adequate furniture in dining areas for resident safety and welfare.
22VAC40-73-780	Describe requirements for laundry and linens and specify that when a facility provides laundry service for resident clothing or linens that the clean items shall be sorted by individual resident. Require table linens and napkins to be clean at all times.		Provides for the cleanliness of clothing and linens for the health and dignity of residents.
22VAC40-73-790	State that the resident shall be assisted in making transportation arrangements.		Specifies assistance with arrangements for transportation to meet resident needs, such as doctors' appointments, and to enhance quality of life, such as attending community events.
22VAC40-73-800	Require incoming mail to be delivered promptly; incoming and outgoing mail shall not be censored or opened except upon request and in the presence of resident or written request of his legal guardian.		Allows for timely mail delivery and privacy in communications.
22VAC40-73-810	Require each building to have at least one operable nonpay telephone easily accessible to staff; residents must have reasonable access to a nonpay		Allows for telephone use by residents and privacy of conversations and ensures adequacy of phone contact for staff to get help if needed in an emergency.

	telephone in privacy.		
22VAC40-73-820	Allow a facility to prohibit smoking on its premises; prohibit smoking in a kitchen or food preparation area and in/on beds.		Provides specifications regarding smoking that address health and safety.
22VAC40-73-830	Require facilities to permit and encourage formation of a resident council to work with the administration, discuss services and make recommendations and perform other functions. Require the facility to provide a written response to the council prior to the next meeting regarding recommendations made.		Provides opportunities for residents to discuss matters in a group setting that are related to the facility and make recommendations for changes to improve their quality of life.
22VAC40-73-840	Require facilities to develop and implement a written policy for pets living on the premises; specifies the minimum content of the policy and requirements for pets.		Provides that pets living in a facility do not endanger the safety and well-being of residents and that pets are well treated..
22VAC40-73-850	Provide minimum requirements for pets visiting an assisted living facility.		Provides that pets visiting a facility do not endanger the safety and well-being of residents and are well treated while visiting.
22VAC40-73-860	Enumerate general requirements for buildings and grounds including doors and windows; enclosed walkways; hot and cold water; outdoor areas accessible to residents; storage of cleaning supplies/other hazardous materials and weapons and firearms.	Code of Virginia § 63.2-1705 A 13VAC5-63 13VAC5-51	Provides general requirements regarding building and grounds and possession of specified items to protect the health, safety, and welfare of residents.
22VAC40-73-870	Require the interior and exterior of all buildings to be in good repair and kept clean and free of rubbish, infestations of insects and vermin. Require furnishings and equipment owned by a resident to be in safe condition and not soiled in a manner that presents a health hazard.	13VAC5-63	Specifies that buildings and furnishings are clean and in good repair and there are handrails and nonslip surfaces for the health and safety of residents.
22VAC40-73-880	Describe requirements for heating, ventilation and cooling and require facilities	13VAC5-63	Provides requirements for heating, ventilation, and cooling, including specifications regarding

	to develop and implement a plan to protect residents in the event of loss of air-conditioning or heat due to emergency, malfunctioning or broken equipment.		temperature, for the well-being and comfort of residents.
22VAC40-73-890	Require interior and exterior areas to be adequately lighted and glare to be kept at a minimum in rooms used by residents.		Allows for lighting that provides for the safety and comfort of residents and staff.
22VAC40-73-900	Mandate requirements for resident sleeping areas including cubic feet of air space per resident; square footage per resident; ceiling height; window area and number of residents per room.	13VAC5-63	Specifies requirements for resident bedrooms for the safety and comfort of residents.
22VAC40-73-910	Require certain specified common rooms to have a glazed window area above ground at least 8.0% of the square footage of the floor area of the common room.	13VAC5-63	Provides that certain common rooms have window area for the enjoyment of residents being able to view outside.
22VAC40-73-920	Specify the requirements for toilet, face/hand washing and bathing facilities.	13VAC5-63	Enables residents to have adequate bathroom facilities for their health, safety, and comfort.
22VAC40-73-925	Specify the requirements for toilet, face/hand washing and bathing supplies; prohibit residents from sharing bar soap and the facility from charging an additional amount for toilet paper, soap, paper towels or use of an air dryer at common sinks and commodes.		Provides for availability of adequate soap, toilet tissue and other supplies for the health and welfare of residents.
22VAC40-73-930	Require all assisted living facilities to have a signaling device easily accessible to the resident in his bedroom or in a connecting bathroom. If there are residents with an inability to use the signaling device, require inclusion on individualized service plan, with minimal frequency of rounds indicated.		Provides for residents to be able call for assistance when help is needed or in certain circumstances, requires rounds to be made to monitor for emergencies or other needs.
22VAC40-73-940	Require an assisted living facility to comply with state regulations and local fire ordinances.	13VAC5-51	Specifies compliance with the Virginia Statewide Fire Prevention Code and local fire ordinances for the safety of

			residents and staff.
22VAC40-73-950	Require an assisted living facility to develop a written emergency preparedness and response plan addressing specified criteria and policies and procedures. Require staff and volunteers to be knowledgeable of the plan and for staff, residents and volunteers to receive orientation and quarterly review of the plan. Annual review and revision of the plan is required. Facility must take appropriate action to protect residents and remedy conditions as soon as possible and notify family members and legal representatives.		Provides for the development and review of an emergency preparedness and response plan so that staff and residents will know what to do in the event of an emergency for their safety and well-being.
22VAC40-73-960	Require assisted living facilities to have a written plan for fire and emergency evacuation approved by the appropriate fire official.		Provides for the development of a fire and emergency evacuation plan so that the facility will be prepared to protect residents if there is a fire or other emergency.
22VAC40-73-970	Require unannounced fire and emergency evacuation drills, evaluation following the drill by staff and documentation of corrective action taken. Facility must maintain a record of fire and emergency evacuation drills for two years.	13VAC5-51	Specifies that fire and emergency drill frequency and participation is in accordance with the Virginia Statewide Fire Prevention Code and that any problems are corrected to protect the safety of residents and staff.
22VAC40-73-980	Require and designate contents of a complete first aid kit that is easily accessible to staff; items with expiration dates must not be expired. Require a first aid kit in a vehicle used to transport residents. Require first aid kits to be checked at least monthly. Require a facility with six or more residents to be able to connect to a temporary emergency electrical power source and provide for certain emergency lighting to be available. Require two forms of communication for use in an emergency and	Code of Virginia § 63.2-1732 D 13VAC5-63	Makes provisions for emergency equipment and supplies for the protection of the health, safety, and welfare of residents and staff.

	availability of a 96-hour supply of food and drinking water. Require at least 48 hours of the supply must be on-site.		
22VAC40-73-990	Require a written plan and what must be included in the plan for resident emergencies; plan exercise is required once every six months.		Specifies that a facility have and practice a plan for resident emergencies so that it is prepared to handle medical and mental health emergencies and missing person situations.
22VAC40-73-1000	Designate subjectivity to Article 2 or 3 of Part X, additional requirements for facilities that care for adults with serious cognitive impairments who cannot recognize danger or protect their own safety.		Clarifies subjectivity to certain requirements when a facility has residents with serious cognitive impairments who cannot recognize danger or protect their own safety and welfare.
22VAC40-73-1010	Specify that Article 2 of Part X applies when there is a mixed population consisting of any combination of residents with designated diagnosis or characteristics.		Clarifies subjectivity to requirements when there is a mixed population.
22VAC40-73-1020	Require that when residents are present there shall be at least two direct care staff members awake and on duty at all times in each building, and during trips away from the facility there shall be sufficient direct care staff to provide sight and sound supervision. There is an exception for facilities licensed for 10 or fewer residents if certain conditions exist.		Provides for adequate staffing to meet the needs of residents when there is a mixed population.
22VAC40-73-1030	Specify mandatory administrator, direct care staff, and staff other than direct care staff training requirements.		Ensures that staff receive training in cognitive impairment when there is a mixed population so that they can provide the care needed by residents with serious cognitive impairments in a respectful and effective manner.
22VAC40-73-1040	Require security monitoring for doors and protective devices on bedroom and bathroom windows for residents with serious cognitive impairments who cannot recognize danger or protect their own safety and welfare.	13VAC5-63	Provides security monitoring and protective devices for the safety and well-being of residents with serious cognitive impairments who are unable to recognize danger or protect their own safety and welfare.

22VAC40-73-1050	Specify that the facility shall have a secured outdoor area for residents' use and that weather permitting, residents with serious cognitive impairments shall be reminded of the opportunity to be outdoors on a daily basis.		Promotes the opportunity for residents with serious cognitive impairments to enjoy the outdoors without endangering their safety or welfare.
22VAC40-73-1060	Require that residents shall be provided free access to an indoor walking corridor or other indoor area for walking.		Allows for space for indoor walking to meet needs of residents with serious cognitive impairments.
22VAC40-73-1070	Specify that special precautions shall be taken to eliminate hazards to the safety and well-being of residents with serious cognitive impairments; if ordinary materials or objects may be harmful, these shall be inaccessible except under staff supervision.		Provides for environmental precautions to protect the safety and welfare of residents with serious cognitive impairments who cannot recognize danger or protect their own safety and welfare.
22VAC40-73-1080	Specify that Article 3 of Part X apply to the safe, secure environment of a resident with a serious cognitive impairment due to a primary psychiatric diagnosis of dementia who is unable to recognize danger or protect his safety and welfare.		Clarifies subjectivity to requirements when there is a safe, secure environment
22VAC40-73-1090	Require a resident to be assessed by an independent clinical psychologist or physician as having a serious cognitive impairment due to a primary psychiatric diagnosis of dementia. Detail physician qualifications necessary to make the assessment; require the assessment to be in writing and include specific areas of assessment; and require assessment to be maintained in the resident's record.	Code of Virginia § 63.2-1802	Provides assurance that a resident is appropriate for placement in a safe, secure environment since he must be assessed by a psychologist or physician as having a serious cognitive impairment due to a primary psychiatric diagnosis of dementia with an inability to recognize danger or protect his own safety and welfare.
22VAC40-73-1100	Require, prior to placement, written approval by one of certain specified persons; written approval shall be retained in the resident's file.	Code of Virginia § 63.2-1802	Ensures that there is approval for a resident to be in a special care unit by an individual listed in a specified order so that a person is not placed in such unit against the individual's wishes, i.e., the

			resident himself if capable of making an informed decision, a legal representative, a relative, or a physician.
22VAC40-73-1110	Require licensee determination, prior to placement, whether placement in special care unit is appropriate; review of appropriateness of continued residence in the special care unit is also required. The review of continued appropriateness of placement shall be performed in consultation with persons designated in this section.		Provides for periodic reviews of appropriateness of continued residence in a special care unit to ensure that a resident does not remain in such unit when it is no longer appropriate.
22VAC40-73-1120	Specify scheduled activities for special care unit residents and require a designated staff person for the special care unit's activity program and that designated staff person's qualifications.		Provides for activities for residents of a special care unit for their enjoyment and enrichment.
22VAC40-73-1130	Require that when residents are present there shall be at least two direct care staff members awake and on duty at all times on each floor in each special care unit. Require during trips away from the facility there shall be sufficient direct care staff to provide sight and sound supervision.		Provides for adequate staffing to meet the needs of the residents in a special care unit.
22VAC40-73-1140	Mandate training requirements for special unit staff		Ensures that the administrator, direct care staff who work in the special care unit, and other staff who have contact with special care unit residents receive training in cognitive impairment so that they can provide the care needed by residents in a respectful and effective manner.
22VAC40-73-1150	Require doors that lead to unprotected areas to be monitored or secured and protective devices to be on the bedroom, bathroom and common area windows.	13VAC5-63	Provide for monitoring, security and protective devices for the safety and well-being of residents in a special care unit.
22VAC40-73-1160	Require a secured outdoor area for residents' use or provide direct care staff supervision while residents		Promotes the opportunity for residents in a special care unit to enjoy the outdoors without endangering their safety or

	are outside; residents shall be given the opportunity to be outdoors on a daily basis, weather permitting.		welfare.
22VAC40-73-1170	Specify that the facility shall provide residents free access to an indoor walking corridor or other indoor areas for walking.		Allows for space for indoor walking to meet needs of residents with serious cognitive impairments.
22VAC40-73-1180	Require special environmental precautions to be taken to eliminate hazards to the safety and well-being of residents; when there are indications that ordinary materials or objects may be harmful, these materials shall be inaccessible to the resident except under staff supervision. Require special environment enhancements, tailored to the population in care, to be provided by the facility.		Provides for environmental precautions to protect the safety and welfare of residents in a special care unit and environmental enhancements to enable the residents to maximize their independence and promote their dignity in comfortable surroundings.