VIRGINIA

Citation Assisted living facilities: 22 VAC 40-72-10 et seq.

General Approach and Recent Developments

HB 3207 (Chapter 539) passed in 2007 and allows residents to age in place. Legislation passed in 2005 (Chapter 924) requires training and listing on a medication aide registry for non-licensed staff that administer medications and licensing of assisted living administrators. The requirements are administered by the Department of Health Professions. Chapter 119 requires that ALFs are allowed to request reports from the sex offender registry.

General revisions to the licensing regulations were effective December 2006. The state provides an "auxiliary grant" under a state SSI supplement and a state-funded payment for "regular" assisted living services. Inspection reports and description of any violation and actions to be taken are posted in the Department of Social Services' website and are accessed through the facility search data base.

Adult Foster Care

AFC is regulated through provider standards by the Adult Services Unit of the Department of Social Services. It is defined as "a locally optional program that provides room and board, supervision, and special services to an adult who has a physical or mental health. AFC may be provided for up to three adults by any one provider."

Web Address	Content
http://leg1.state.va.us/cgi-bin/legp504.exe?000+reg+22VAC40-72-10	Rules
http://www.dss.virginia.gov/facility/search/alf.cgi	List, survey findings
https://www.seniornavigator.org/vaprovider/consumer/snTopicList.do?mainTopicId=72&categoryId=4	Consumer
http://www.dss.virginia.gov/facility/alf_forms.cgi	Forms, applications

Supply						
Category	2007		2004		2002	
	Facilities	Units	Facilities	Units	Facilities	Units
Assisted living facilities	577	31,964	636	34,598	669	34,206

Definition

Assisted living facility means any congregate residential setting that provides or coordinates personal and health care services, 24-hour supervision, and assistance (scheduled and unscheduled) for the maintenance or care of four or more adults who are aged, infirm, or disabled and who are cared for in a primarily residential setting, except a facility or portion of a

facility licensed by the state Board of Health or the Department of Mental Health, Mental Retardation and Substance Abuse Services (and other exceptions including HUD housing building).

Assisted living care means a level of service provided by an ALF for adults who may have physical or mental impairments and require at least moderate assistance with ADLs. Moderate assistance mean dependent in two or more ADLs. Included in this level of services are individuals who are dependent in behavior pattern as documented on the uniform assessment instrument.

Residential living care means a level of service provided by an ALF for adults who may have physical or mental impairments and require only minimal assistance with ADLs. Included in this level of service are individuals who are dependent in medication administration as documented on the uniform assessment instrument. This definition includes the services provided by the facility to individuals who are assessed as capable of maintaining themselves in an independent living status. Minimal assistance means dependency in only one ADL or one or more IADLs.

Unit Requirements

ALFs may offer single rooms (minimum 100 square feet for newer buildings) or multiple occupancy rooms (80 square feet per occupant). A maximum of four people may occupy a room. Facilities must provide one toilet and wash basin for every seven people and one bath tub or shower for every ten people.

Admission/Retention Policy

Chapter 539 was enacted in 2007 and provides that the Department of Social Services shall not order the removal of a resident from an ALF if the resident, the resident's family, the resident's physician, and the facility consent to the resident's continued stay in the ALF and the facility is capable of providing, obtaining, or arranging for the provision of necessary services for the resident, including, but not limited to, home health care and/or hospice care. The bill does not override the admission/retention requirement below.

ALFs cannot admit or retain residents with the following conditions or needs:

- Ventilator dependent;
- Dermal ulcers (III or IV) unless a Stage III ulcer is healing;
- IV therapy or injections directly into the vein except for intermittent care under specified conditions;*
- Airborne infectious disease in a communicable state;
- Psycho-tropic medications without an appropriate diagnosis and treatment plan;
- Nasogastric tubes;

- Gastric tubes except when an individual is capable of independently feeding himself and caring for the tube or by exception;*
- Individuals who present a danger to themselves or others;
- Individuals requiring continuous nursing care (around the clock observation, assessment, monitoring, supervision, or provision of medical treatment by a licensed nurse);
- Individuals whose physician certifies that placement is no longer appropriate;
- Unless the individual's physician determines otherwise, individuals who require maximum physical assistance as documented by an assessment and meet Medicaid nursing facility LOC criteria; or
- Individuals whose health care needs cannot be met in the specific ALF as determined by the facility.

** Exceptions are allowed when requested by a resident and care is provided by a physician, a licensed nurse, or a licensed home care organization (except for Auxiliary Grant residents).*

Public pay residents must have an assessment completed by a case manager or other qualified assessor. Assessments for private-pay residents may be completed by a case manager or other qualified assessor, an independent physician, or an employee of the facility who has documented training in the completion of the uniform assessment instrument. Assessments completed by facility staff must be signed by the administrator or designated representative.

Nursing Home Admission Policy

Residents must meet functional and medical criteria. Functional criteria include:

- Dependent in 2-4 ADLs and semi-dependent or dependent in behavior pattern and orientation, and semi-dependent in joint motion or dependent in medication administration; or
- Dependent in 5-7 ADLs and dependent in mobility; or
- Semi-dependent in 2-7 ADLs and dependent in mobility and behavior pattern and orientation.

Medical or nursing supervision means:

- A condition that requires observation and assessment; or
- Potential for instability is high or exists; or
- On-going nursing services are required.

Services

The regulations offer ALFs the flexibility to develop a program that meets the following criteria:

- Meet physical, mental, emotional, and psycho-social needs,
- Provide protection, guidance, and supervision;
- Promote a sense of security and self-worth; and
- Meet the objectives of the service plan.

Individualized services plans are developed to 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. Service plans are designed to maximize the resident's level of functional ability.

Each facility develops a written program description for prospective residents that describes the population to be served and the program components and services available. Facilities are permitted but are not required to offer all services as long as they have services that are appropriate for the needs of residents. Adult care facilities must also provide 24-hour capacity to meet scheduled and unscheduled service needs. Skilled nursing services, except continuous skilled nursing, may be provided by a facility nurse or a contracted nurse of a licensed home care organization. Eleven hours of activities per week for residential living care and 14 hours for assisted living care must be scheduled.

An assessment using the approved Uniform Assessment Instrument must be performed on all residents prior to admission, every 12 months, and whenever a change in the resident's condition warrants a LOC change. An ISP or plan of care is developed from the assessment in conjunction with the resident, family, case worker, case manager, and health care providers. The service plan shall reflect the philosophy and values described above.

Dietary

A minimum of three well-balanced meals and snacks must be served that meet the USDA Food Guide Pyramid guidelines. Special diets must be provided when ordered by a physician.

Agreements

Agreements include: specific charges for accommodations, services, and care; the frequency of payment and rules relating to non-payment; description of all accommodations, services, and care offered and their related charges; amount and purpose of advance payments and refund policy; policy for increasing charges and the amount of notification; and a stipulation of the transfer of ownership of any property, real estate, or money to the facility. Facilities must provide upon admission and upon request a description of the types of staff, services provided, and the hours services are available.

Facilities must file a disclosure form that includes the following information, which shall be kept current: name of the facility; name of the licensee; names of any other ALFs for which the licensee has a current license issued by the Commonwealth of Virginia; ownership structure

of the facility (i.e., individual, partnership, corporation, limited liability company, unincorporated association or public agency); name of management company that operates the facility, if other than the licensee; licensed capacity of the facility and description of the characteristics of the resident population; description of all accommodations, services, and care that the facility offers; fees charged for accommodations, services, and care, including clear information about what is included in the base fee and any fees for additional accommodations, services, and care; policy regarding increases in charges and length of time for advance notice of intent to increase charges; amount of an advance or deposit payment and refund policy for such payment; criteria for admission to the facility and any restrictions on admission; criteria for transfer to a different living area within the same facility, including transfer to another level, gradation, or type of care within the same facility or complex; criteria for discharge, including the actions, circumstances, or conditions that would result or may result in the resident's discharge from the facility; requirements or rules regarding resident conduct and other restrictions and special conditions; range, categories, frequency, and number of activities provided for residents; general number, functions, and qualifications of staff on each shift; notification that names of contractors providing essential services to residents are available upon request; and the address of the website of the department, with a note that additional information about the facility may be obtained from the website, including type of license, special services, and compliance history that includes information after July 1, 2003.

Provisions for Serving People with Dementia

Special care units. At least two direct care staff must be awake and on duty at all times if residents with dementia are served unless there are no more than five residents on the unit and there are at least two other direct care staff in the building. The annual training requirement for direct care staff has been increased from 12 to 16 hours for the first year of employment. Within six months, direct care staff must complete four hours of training that includes an explanation of cognitive impairments, behavior management, communications skills, and safety considerations. Within the first year of employment, six more hours of training are required on topics that include assessment, care techniques, therapeutic environment and activity planning. Curriculum for staff must be developed by a qualified health care professional or a person approved by the Department.

Exit doors must be monitored or secured unless they lead to protected areas. Staff-supervised or secure outdoor areas must be available. The rules require an initial assessment by a physician or clinical psychologist, agreement to the placement by the resident, a guardian, relative, or physician and periodic reviews. Scheduled activities are required that include stimulation, physical, productive/work, social, and outdoor activities.

The standards differ for facilities that serve a mixed population.

Medication Administration

Residents may self-administer medications if they are capable of doing so, although assistance with self-administration is not described in the regulations. Medication Administration is permitted when licensed staff are available or a medication training program approved by the Board of Nursing has been completed.

Public Financing

An HCBS waiver to serve 200 people with Alzheimer's disease was approved in 2005. Participants must reside in a licensed ALF, be in a safe and secure environment, meet Virginia's criteria for nursing facility placement and be receiving an Auxiliary Grant. Individuals eligible to be placed on this waiver are either remaining at home where an adult child is typically serving as primary caregiver; residing in an ALF without the benefit of specialized services, which are not provided in the base $50 per day rate; or residing in a more expensive institutionalized nursing facility setting.

Services include: Assisted living -- assistance with ADLs, housekeeping, and supervision; administration; medication administered by a licensed professional. Nursing evaluations -- evaluation by a RN; and therapeutic and recreational programming (weekly activity program based on needs and interests).

The state provides an "auxiliary grant," or an SSI state supplement, and pays for additional services using state funds. The Auxiliary Grant program is a state and locally funded assistance program to supplement the income of recipients of the federal SSI program and certain other aged, blind, and disabled individuals residing in an ALF. In 2004, the maximum auxiliary grant payment is $866 or $996 a month depending upon the area of the state. The PNA is $75 a month. The Auxiliary Grant rate covers room, board, basic supportive services, and supervision.

Medicaid continues to supplement the Auxiliary Grant for a limited number of assisted living residents. There are two payment levels: regular assisted living ($3 a day) and intensive assisted living ($6 a day) as defined by the Department of Medical Assistance Services (DMAS). Regular assisted living services are for individual who require at least a moderate level of assistance with ADLs but not meet the criteria for waiver services. Intensive assisted living services are for individuals who meet the criteria for HCBS waiver (at risk of nursing home placement). Because the waiver was not renewed, no new individuals receive this service. In 2003, the state provided Auxiliary Grants payments to 6,572 residents a month in 373 facilities.

The regular ALP served 997 beneficiaries compared to 1,952 beneficiaries in 2002. The intensive services program (formerly the waiver program) serves 45 participants, down from 526 beneficiaries in 2002. The Alzheimer's demonstration waiver serves nine participants.

Staffing

ALFs shall have staff adequate in knowledge, skills, and abilities and sufficient in numbers to provide services to attain and maintain the physical, mental, and psycho-social well-being of each resident as determined by resident assessments and ISPs, and to assure compliance with regulations for ALFs. At least one staff member must be awake and on duty at all times in each building except in buildings with less than 20 residents if licensed for the assisted living LOC. At least quarterly, a licensed health professional must be on-site to monitor direct care staff performance of health-related activities, including the identification of any significant gaps in the staff person's ability to function competently; advise the administrator of the need for staff training; provide consultation and technical assistance to staff; directly observe every resident whose care needs are equivalent to the intensive assisted living criteria; and recommend in writing any needed changes in the care provided or in the resident's service plan.

Training

Legislation passed in 2005 requires that administrators of facilities offering assisted living care must be licensed. Regulations implementing the legislation are pending. Administrators of facilities offering residential care are not required to be licensed. An *administrator* must be 21, a high school graduate with one year of post-secondary education or administrative or supervisory experience, and must, within each 12-month period, attend at least 20 hours of training related either to client specific needs or to the management and operation of a residential facility for adults. When adults with mental impairments reside in the facility, at least five of the required 20 hours of training shall focus on the resident who is mentally impaired.

Administrators of facilities providing assisted living care must have at least two years of post-secondary education or one year of courses in human services or group care administration from an accredited college or a department curriculum specific to the administration of an adult care facility.

Staff. All employees shall be made aware of: the purpose of the facility, the services provided, the daily routines, specific duties and responsibilities of their position and required compliance with regulations for ALFs as it is related to their duties and responsibilities.

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

- Emergency and disaster plans for the facility;
- Techniques of complying with emergency and disaster plans including evacuating residents where applicable;
- Procedures for handling resident emergencies;
- Use of first-aid kit and knowledge of its location;
- Hand washing techniques, standard precautions, infection risk reduction behavior;
- Observance of rights and responsibilities of residents;

- Procedures for detecting and reporting suspected abuse, neglect, or exploitation of residents;
- Techniques for assisting residents to overcome transfer trauma;
- Confidential treatment of personal information;
- The needs, preferences and routines of the resident; and
- Specific duties and requirements of their positions.

Orientation must be completed within one week. All direct care staff shall have been trained to have general knowledge in the care of aged, infirm, or disabled adults with due consideration for their individual capabilities and their needs and capacities within 30 days.

On an annual basis, all direct care staff must have at least eight hours of training. The training shall be relevant to the population in care and shall be provided through in-service training programs or institutes, workshops, classes, or conferences. When adults with mental impairments reside in the facility, at least two of the eight required hours of training shall focus on the resident who is mentally impaired. Documentation of this training shall be kept by the facility in a manner that allows for identification by individual employee.

Staff in ALFs must also be trained to deal with residents who have a history of aggressive behavior or of dangerously agitated states. This training must cover information, demonstration, and practical experience in self-protection and prevention and de-escalation of aggressive behavior. Training to serve residents who are restrained is also required and covers proper techniques for applying and monitoring restraints, skin care, and active assisted range of motion exercises, assessment of blood circulation, turning and positioning, provision of sufficient bed clothing and covering to maintain body temperature, and provision of additional attention to meet the physical, mental, emotional, and social needs of restrained residents.

Background Check

The statute (§63.2-17.20) does not allow persons convicted of specific types of crimes to be employed. Staff must submit a sworn statement disclosing criminal convictions or pending charges. False statements are a Class 1 misdemeanor. An original criminal records check must be obtained by the facility from the Central Criminal Records Exchange.

Monitoring

Public pay residents receive annual reassessments by assigned case managers. Residents who require coordination of multiple services, are not able and do not have support available to assist in coordinating activities, and need a level of coordination that is beyond what the assisted living care residence is able to provide, receive Medicaid funded, targeted case management from a case manager.

Private-pay residents also receive annual reassessment to assure continued appropriate placement and services.

The Department of Social Services conducts regular licensing inspections of ALFs. DMAS conducts on-site visits to monitor the quality and appropriateness of assisted living services provided to public pay residents of these facilities.

Fees

- Facilities of 1-12 beds ($14 per facility);
- 13-25 beds ($35 per facility);
- 26-50 beds ($70 per facility);
- 51-75 beds ($105 per facility);
- 76-200 beds ($140 per facility);
- More than 200 beds ($200 per facility).

Fees are doubled for licenses that are issued for two years.

Revised regulations for ALFs/CRCFs were adopted in July 2001.

RESIDENTIAL CARE AND ASSISTED LIVING COMPENDIUM: 2007

Files Available for This Report

REPORT INTRODUCTION (*including Cover, Table of Contents, Acknowledgments, and Acronyms*)

HTML: http://aspe.hhs.gov/daltcp/reports/2007/07alcom.htm
PDF: http://aspe.hhs.gov/daltcp/reports/2007/07alcom.pdf

SECTION 1. Overview of Residential Care and Assisted Living Policy

HTML: http://aspe.hhs.gov/daltcp/reports/2007/07alcom1.htm
PDF: http://aspe.hhs.gov/daltcp/reports/2007/07alcom1.pdf

SECTION 2. Comparison of State Policies

HTML: http://aspe.hhs.gov/daltcp/reports/2007/07alcom2.htm
PDF: http://aspe.hhs.gov/daltcp/reports/2007/07alcom2.pdf

SECTION 3. State Summaries

HTML: http://aspe.hhs.gov/daltcp/reports/2007/07alcom3.htm
PDF: http://aspe.hhs.gov/daltcp/reports/2007/07alcom3.pdf

Each state's summary can also be viewed separately at:

Alabama	http://aspe.hhs.gov/daltcp/reports/2007/07alcomAL.pdf
Alaska	http://aspe.hhs.gov/daltcp/reports/2007/07alcomAK.pdf
Arizona	http://aspe.hhs.gov/daltcp/reports/2007/07alcomAZ.pdf
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