



**COMPARISON OF CURRENT ASSISTED LIVING REGULATIONS VS.  
FINAL ASSISTED LIVING REGULATIONS**  
Effective December 29, 2008

*This comparison chart has been prepared by LifeSpan Network staff and is a tool to assist providers in implementing the new regulatory changes. The comparison chart has been approved by the Office of Health Care Quality.*

<b>NEW SECTION NUMBER</b>	<b>OLD SECTION NUMBER</b>	<b>SUBSTANTIVE CHANGES</b> <b>(Indicates whether a provision has been added, deleted or modified in the changes. Any provision not referenced in this chart remains the same as it is in current regulations.)</b>
10.07.14.01 Purpose	.01	No Changes.
10.07.14.02 Definitions	.02	<p>Makes the following changes to the definitions:</p> <ol style="list-style-type: none"> <li>1. Removes the definition of “Abuse of funds or exploitation.” Replaces it with “Financial exploitation” – see below.</li> <li>2. “Administration of Medication” – Changes the definition by removing the phrase “who lacks the cognitive ability to self-administer medications.”</li> <li>3. Adds a definition for “Adult medical day care.”</li> <li>4. “Assessment” – Qualifies that an “assessment” is done using the Resident Assessment Tool.</li> <li>5. “Assisted Living Program” – Removes the following from what is not considered an ALP: (vii) Emergency, transitional, and permanent housing arrangements for the homeless, where no assistance with activities of daily living is provided and (viii) Emergency, transitional, and permanent housing arrangements for the victims of domestic violence. Removes “Project Home,” a program operated by the Department of Human Resources, from being an ALP.</li> <li>6. “Authorized prescriber” – Changes the definition to mean any individual who is authorized to prescribe medications under the Health Occupations Article.</li> <li>7. Adds a definition of “background check” to mean “a check of court and other records by a private agency.”</li> <li>8. Adds a definition of “Certified medication technician.”</li> <li>9. “Chemical restraint” – Changes the definition to mean the administration of drugs with the intent of significantly curtailing the normal mobility or normal physical activity of a resident in order to</li> </ol>

		<p>protect the resident from injuring the resident or others.</p> <ol style="list-style-type: none"> <li>10. Adds a definition of “criminal history records check” to mean a “check of criminal history information, as defined in the Criminal Procedure Article, Section 10-201, by the Department of Public Safety and Correctional Services.”</li> <li>11. Adds a definition for “Delegating nurse.” Definition of “Delegation of nursing tasks” remains unchanged.</li> <li>12. “Emergency placement” is now called “Emergency admission.”</li> <li>13. Adds a definition of “Family council” to mean a group of individuals who work together to protect the rights of and improve the quality of life of residents of an assisted living program.</li> <li>14. Adds a definition of “Financial exploitation” to mean the misappropriation of a resident’s assets or income, including spending the resident’s assets or income against the will of or without the consent of the resident or the resident’s agent or for the use and benefit of a person other than the resident, if the resident or agent has not consent to the expenditure.</li> <li>15. “Incident” – Changes the term from “an injury to a resident which requires treatment” to “an injury to a resident which <u>may</u> require treatment.”</li> <li>16. Adds a definition for “Informal dispute resolution” to mean an informal process that provides a licensee the opportunity to question the Department about deficiencies cited on a recent inspection.</li> <li>17. Removes the definition of “licensed dietitian” and “licensed nutritionist.”</li> <li>18. “Mental Abuse” – Changes the term by removing the term “persistent” so that mental abuse is now “intentional course of conduct” rather than “intentional, persistent” course of conduct.</li> <li>19. Removes the definition of “occupant.”</li> <li>20. Adds a definition for OHCQ.</li> <li>21. “Physical Abuse” – Adds the term “or pain” so that it means the “sustaining of any physical injury or <u>pain</u> . . . “.</li> <li>22. “Physical restraint” – Changes the definition and exempts “protective devices.”</li> <li>23. Adds a definition of “Plan of correction” to mean a written response from the assisted living program that addresses each deficiency cited as a result of an inspection by the Department.</li> <li>24. Adds a definition of “Protective device” to mean any device or equipment, except bed side rails that shields a resident from self-injury, prevents a resident from aggravating an existing physical problem or prevents a residents from precipitating a potential physical program and that may limit, but does not eliminate, the movement of the resident’s head, body or limbs and that is prescribed by a physician.</li> <li>25. Adds a definition of “Quality assurance” to mean a system for maintaining professionally acceptable standards of care by identifying opportunities to improve; studying problems, if any, and their root causes; and implementing and monitoring interventions to ensure the intended improvement is achieved and sustained.</li> <li>26. Changes the definition of “relief personnel” by adding the term “qualified” before “individuals who have been hired . . .”.</li> <li>27. Removes definition of “Relocation.”</li> <li>28. Adds a definition of “Restraint” to mean any chemical restraint or</li> </ol>
--	--	---

		<p>physical restraint as defined earlier under chemical restraint and physical restraint. Restraint does not include a protective device.</p> <p>29. Adds a definition of “Resident Assessment Tool” to mean the Maryland’s Assisted Living Resident Assessment and Level of Care Scoring Tool.</p> <p>30. Adds a definition of “sanction” to mean “a disciplinary penalty imposed for a violation of statutes or regulations relating to the operation of an AL program.”.</p> <p>31. “Self-administration of medication” – Changes it to be that a resident has to have the cognitive and <u>physical</u> ability to take medications as prescribed by an authorized prescriber.</p> <p>32. Changes the definition of “Service Plan” by adding that a service plan must be based upon the resident’s needs as determined by the Resident Assessment Tool.</p> <p>33. Replaces “significant change” with “significant change of condition,” which means an assessment that is completed on a resident who has demonstrated major changes in status that are not self limiting or which cannot be resolved within 30 days; a change in one or more areas of the resident’s health condition that could demonstrate an improvement or decline in the resident’s status; and the need for interdisciplinary review or revision to the service plan. Retains the language that a significant change of condition does not include any ordinary, day-to-day fluctuations in health status, function or behavior, or an acute short-term illness such as a cold unless these fluctuations continue to recur.</p>
10.07.14.03	NEW	<p>Incorporates the following by reference:</p> <ol style="list-style-type: none"> <li>1. Maryland’s Assisted Living Resident Assessment Tool and Level of Care Scoring Tool.</li> <li>2. Maryland Assisted Living Program Uniform Disclosure Statement.</li> <li>3. 42 CFR 484.18, 484.30, and 484.32.</li> <li>4. The Life Safety Code NFPA 101.</li> <li>5. The State Fire Prevention Code.</li> <li>6. Guidelines for Preventing the Transmission of Mycobacterium Tuberculosis in Health-Care Facilities COMAR 10.07.02.01-1.</li> </ol>
10.07.14.04 License Required	.03	No Changes.
10.07.14.05 Levels of Care	.04	<ol style="list-style-type: none"> <li>1. Adds the requirement for on-site nursing and overnight awake staff based on an evaluation using the Resident Assessment Tool. This issue is addressed more fully below in Regulation .14C under Staffing Plan.</li> <li>2. Under low and moderate levels of care, changes the phrase that staff must assist “with some but not all activities of daily living” to “with two or more activities of daily living.”</li> </ol>
10.07.14.06 Restrictions	.05	<ol style="list-style-type: none"> <li>1. Implements House Bill 1036 from the 2006 Session, which states that a person may not advertise, represent, or imply to the public that an assisted living program is authorized to provide a service that the program is not licensed, certified, or otherwise authorized by DHMH to provide. A person may not advertise an assisted living program in a misleading or fraudulent manner. Violators are subject to a civil money penalty not exceeding \$10,000 for each offense. Prohibits an</li> </ol>

		<p>assisted living program from providing day, partial, or hourly adult day care services without appropriate adult medical day care licensure.</p> <ol style="list-style-type: none"> <li>2. Prohibits a program from providing day, partial, or hourly adult day care services without appropriate adult medical day care licensure. However, an individual who has applied for admission or who has been admitted to the program may, for a reasonable period of time not to exceed 30 days, transition to the program in increments of partial days before becoming a resident. All regulations of this chapter apply to services and care provided during this transition period.</li> <li>3. Mandates that a person who falsifies or alters an assisted living license is subject to referral for criminal prosecution and imposition of civil fines.</li> </ol>
<p>10.07.14.07 Licensing Procedure</p>	<p>.06</p>	<ol style="list-style-type: none"> <li>1. Adds the requirement that an applicant for licensure has to submit the completed Uniform Disclosure Statement on a form developed by DHMH. <u>See</u> Regulation .10 below.</li> <li>2. Increases the licensing fees by moving from \$100/year for programs with less than 16 beds and \$100/year plus \$6/bed for programs with 16 or more beds to a tiered system: <ul style="list-style-type: none"> <li>• 1-3 beds: \$100</li> <li>• 4-15 beds: \$150</li> <li>• 16 or more: \$150 plus \$8 per bed for each bed over 15.</li> </ul> </li> <li>3. Allows, for initial licensure, DHMH to charge \$250 per additional on-site visit or deny the license if the facility fails to comply with the regulations and requires DHMH to conduct more than one on-site pre-licensure visit.</li> <li>4. Adds the requirement that the applicant must provide a current background check or criminal history records check of the applicant, AL manager, alternate AL manager, other staff and any household member.</li> <li>5. Adds the requirement that the applicant has to identify any individual or corporate owner who owns 25 percent or more interest in the assisted living program.</li> <li>6. Changes the notification requirement to local health departments and local offices on aging of licensure request to an approval process by stating “where applicable, the applicant must provide approvals from the local health department, local or state fire authority and local area agency on aging.”</li> <li>7. Adds new requirements for applying for an initial licensure, such as demonstrating financial ability to operate an AL program, etc.</li> <li>8. Prohibits an owner, manager, alternative manager or board member who had its license suspended or revoked from operating, leasing or managing another assisted living program for 10 years without good cause. After 10 years, the individual must submit evidence to DHMH that he/she is capable of owning, managing or operating a program.</li> <li>9. Restricts a licensee from operating a program until the license has been issued and states that a licensee may not operate multiple sites until each site has been inspected and approved by DHMH.</li> <li>10. Makes the license valid for 2 years instead of 1 year.</li> </ol>

10.07.14.08 Changes in a Program that Affect the Operating License	.07	<ol style="list-style-type: none"> <li>1. Requires that a new license be issued when there is a change in the level of care provided.</li> <li>2. Stipulates that whenever ownership of a program is transferred from the person named on the license, the current licensee remains responsible for the correction of all outstanding deficiencies or impending sanctions until a new license is issued to the new owner.</li> <li>3. Requires that after a program closes, the licensee must notify DHMH of the date of closure, the place of relocation of each resident and must return all licenses, past and present, to DHMH by certified mail.</li> </ol>
10.07.14.09 Licensure Standards Waiver		No Changes.
10.07.14.10 Uniform Disclosure Statement	NEW	<p>Adds the requirement that an AL program report any changes on its Uniform Disclosure Statement filed with OHCQ within 30 days of the change in services and to file an amended Statement. AL programs must provide a copy without cost to any individual making a request to review the Statement and must include a copy in its marketing materials. <b>NOTE:</b> The Uniform Disclosure Statement is available in electronic format. To access it, go to the OHCQ website under the Forms Section of Assisted Living.</p> <p><a href="http://www.dhmf.state.md.us/ohcq">www.dhmf.state.md.us/ohcq</a>.</p>
10.07.14.11 Investigation by Department	.46	<ol style="list-style-type: none"> <li>1. Current regulations require an assisted living program to be open at all REASONABLE times to announced or unannounced inspections. This draft removes the term reasonable and states “at all times.”</li> <li>2. States that any part of the facility and any surrounding accessory buildings which may be entered by staff or residents are considered part of the facility and are subject to inspection.</li> <li>3. Allows files to be maintained off-site that do not pertain to current residents or residents that have been discharged within the last 6 months, staff or records relating to quality assurance. These records must be available for inspection within 24 hours of DHMH’s request.</li> <li>4. Requires plans of correction to be submitted within 10 calendar days of receipt of the notice of violation or deficiency. Plan of corrections must include the date by which the licensee must complete the correction of each deficiency.</li> <li>5. Implements a new informal dispute resolution process. This process will allow a licensee to question violations within 10 calendar days of receiving the statement of violations. The written request must fully describe the disagreement with the statement of violations and be accompanied by any supporting document. At the discretion of OHCQ, the process may be held in-person, by telephone or in writing. The process is informal and not attended by counsel. Items brought to IDR do not have to be included in the plan of correction. These items do not have to be submitted until 5 days after the licensee is provided oral or written notice of the outcome of the IDR.</li> </ol>
10.07.14.12 Compliance Monitoring	.47	Removes the provision that DHMH may delegate some of its duties to the Department of Human Resources.
10.07.14.13 Administration	NEW	<ol style="list-style-type: none"> <li>1. Adds the requirement that an assisted living program must develop and implement a quality assurance plan. The AL manager and delegating</li> </ol>

		<p>nurse must meet every 6 months to review the change in status of the program's residents; outcomes of pharmacy reviews; service plan requirements; and written recommendations or findings of the consultant pharmacist. The AL manager must document the proceedings of the meetings.</p> <p>2. Adds the requirement that an assisted living program must make reasonable attempts to cooperate with a resident or family council, if one exists. A family council may consist of the following members: members of a current resident's family or an individual appointed by a current resident or the resident's family, if the resident is incapable of appointing an individual. A resident council can consist of current residents of the program.</p>
10.07.14.14 Staffing Plan	.14 referred to as Staff Levels	<p>1. Adds the requirement that an assisted living program must provide awake, overnight staff when a resident's assessment, using the Resident Assessment Tool, indicates that it is required according to the instructions on that tool. If a physician or assessing nurse does not believe that a resident requires awake, overnight staff, the physician or assessing nurse must document the reasons in the area provided in the resident assessment tool, which must be retained in the resident's record.</p> <p>2. Allows a waiver for electronic monitoring under certain conditions.</p> <p>3. Adds the requirement that an assisted living program must provide on-site nursing when a delegating nurse, based upon the needs of a resident, issues a nursing or clinical order for that service. If the manager determines that the order should not be implemented, the manager, delegating nurse and resident's physician must discuss any alternatives to safely address the resident's needs. If there are alternatives, the manager must notify the resident or representative, the delegating nurse and the resident's physician of the change or the order, which must be documented in the resident's record.</p> <p>4. If the manager fails to implement the order without identifying alternatives, the delegating nurse must notify the resident, the resident's physician and OHCQ. Failure to implement without demonstrating why the order should not be followed or without identifying alternatives to care may result in sanctions against the program.</p> <p>5. Requires on-site nursing personnel to work in partnership with the delegating nurse and assisted living program staff to ensure adequate assessment of residents, planning of medical services and oversight of nursing activities.</p> <p><b>NOTE:</b> A new Resident Assessment Tool will be released when these regulations become final to reflect the changes. Please note, however, that the tool has already been changed to require that it be completed by a physician, registered nurse, certified nurse midwife or certified nurse practitioner rather than only verified by them.</p>
10.07.14.15 Assisted Living Manager	.15	<p>1. Changes the requirements for the qualifications of managers by specifying that for level 3 programs, the assisted living manager must have either:</p> <ul style="list-style-type: none"> <li>• a four year college degree; OR</li> <li>• two years' experience in a health care related field and one year experience as a manager or an alternate manager; OR</li> <li>• two years experience in a health care related field and successful</li> </ul>

		<p>completion of the 80-hour manager training course.</p> <p>Current requirements remain the same for level 1 and level 2 programs.</p> <p>2. Adds training requirements for managers.</p> <ul style="list-style-type: none"> <li>• Currently, managers must have “knowledge” in certain areas. Now, managers will have to have “verifiable” knowledge in the health and psychosocial needs of the population served; the resident assessment process; use of service plans; cuing, coaching and monitoring, providing assistance with ambulation, personal hygiene, dressing, toileting, and feeding; and resident rights. Managers who have completed and passed the examination for the 80-hour course are presumed to have met the knowledge requirements.</li> <li>• Managers will then have to receive initial and annual training rather than simply having knowledge in fire and life safety, infection control, emergency disaster plans, basic food safety and receive re-certification in basic first aid and CPR. Currently, an assisted living manager must only have adequate knowledge in these areas.</li> </ul> <p>3. Adds several new responsibilities to the manager:</p> <ul style="list-style-type: none"> <li>• Implementing a nursing or clinical order of the delegating nurse or documenting in the resident’s record why the order should not be implemented;</li> <li>• Notifying OHCQ when the manager terminates the program’s contract with a delegating nurse and the reason for termination;</li> <li>• Notifying the residents and the resident’s representative of any significant change in condition of the resident, adverse event that may result in a change of condition, outcome of the resident’s care that results in an unanticipated consequence and any corrective action.</li> </ul>
10.07.14.16 and .17 AL Manager Training Course	.15-1 and .15-2	<p>States that the infection control course must include standard precautions, contact precautions, and hand hygiene. All other requirements for manager training remain the same. <b>NOTE:</b> Managers still need to comply with the above requirements of Regulation .15 plus the manager training requirements. Individuals are only exempted from having to take the course if they are licensed as a nursing home administrator or worked for one year in Maryland as an assisted living manager prior to January 1, 2008. The regulation states January 1, 2006 but a transmittal dated June 30, 2008 indicates that the enforcement date is January 1, 2008. The transmittal also indicates that the enforcement date for completing the course is now August 2009. See <a href="http://www.dhmd.state.md.us/ohcq">www.dhmd.state.md.us/ohcq</a>.</p>
10.07.14.18 Alternative AL Manager	.16	<p>Adds the requirement that an alternate must have two years experience in a health care related field. The alternate must meet the same training requirements required of other staff.</p>
10.07.14.19 Other Staff Qualifications	.17	<p>1. Removes the requirement that all other staff must be 21 years old or older unless supervised at all times by another staff who is 21 years or older and states that staff must be 18 years old or older unless licensed as a nurse.</p>

		<ol style="list-style-type: none"> <li>2. Specifies that staff must be free from tuberculosis, measles, mumps, rubella, and varicella through appropriate screening procedures such as tuberculosis skin tests, positive disease histories, or antibody serologies rather than just being free from active reportable airborne disease, infectious communicable disease or both.</li> <li>3. Requires that fire and life safety must include the use of fire extinguishers and that infection control must include standard precautions, contact precautions and hand hygiene.</li> <li>4. Requires that if job duties involve the provision of personal care services, staff must demonstrate to the delegating nurse competency prior to providing such services. This requirement does not apply to a CNA or GNA. An individual may work for 7 days before showing competency to a delegating nurse if the individual is performing these tasks accompanied by a CNA, GNA or a person approved by the delegating nurse.</li> <li>5. States that a sufficient number of staff must be trained in basic CPR to ensure that a trained staff member is available to perform CPR in a timely manner, 24 hours a day.</li> <li>6. Requires that proof of training must include date of class, course content, documentation of successful completion of the training content, signatures of the trainer and attendees, and qualifications and contact information for the trainer.</li> </ol>
10.07.14.20 Delegating Nurse	NEW	<p>Adds the following new requirements:</p> <ol style="list-style-type: none"> <li>1. Requires the program to have a current and signed agreement with a registered nurse for services of a delegating nurse. If the delegating registered nurse is an employee, the employment contract satisfies this requirement.</li> <li>2. Requires the program to have documentation that the delegating nurse completed the mandatory training required by the Board of Nursing.</li> <li>3. Requires the delegating nurse to be on-site at least every 45 days and available on call or have a qualified alternate delegating nurse available or on call.</li> <li>4. States that the delegating nurse has the overall responsibility for: managing the clinical oversight of resident care in the program, issuing nursing or clinical orders, reviewing the manager's assessment of resident's, notifying OHCQ if the delegating nurse terminates the contract with the program and the reason for termination, and notifying the resident's physician, the resident or representative and OHCQ when the manager fails to implement nursing or clinical orders.</li> </ol>
10.07.14.21 Preadmission Requirements	.09	<ol style="list-style-type: none"> <li>1. Stipulates that the resident assessment tool determines the need for awake overnight staff.</li> <li>2. Adds physician assistant to the category of individuals who may conduct an examination of the resident prior to move-in.</li> </ol>
10.07.14.22 Resident Specific Level of Care	.10	<ol style="list-style-type: none"> <li>1. Facilities can no longer apply for a waiver for residents requiring treatment for an active reportable communicable disease.</li> <li>2. Removed the idea that assisted living programs are certified by a State agency to provide a specialized program for an individual with HIV/AIDS</li> </ol>

10.07.14.23 Admission Requirement	.11	Removes the provisions related to the current disclosure requirements and replaces it with the Uniform Disclosure Statement contained in 10.07.14.07.
10.07.14.24 Resident Agreement – General and Non-Financial Content	.12	Adds the requirement that an AL program give a copy of the signed resident agreement to the resident and the resident’s agent.
10.07.14.25 Resident Agreement Financial Content	.13	No Changes.
10.07.14.26 Service Plan	.18	Adds a new section on assessments that requires the resident’s service plan to be based on assessments of the resident’s health, function and psychosocial status using the Resident Assessment Tool. A full assessment must be completed within 48 hours but not later than required by nursing practice and the patient’s condition after a significant change of condition and each nonroutine hospitalization. When the delegating nurse determines in the nurse's clinical judgment that the resident does not require a full assessment within 48 hours, the delegating nurse shall: (a) Document the determination and the reasons for the determination in the resident's record; and (b) Ensure that a full assessment of the resident is conducted within 7 calendar days. A review of the assessment shall be conducted every 6 months for residents who do not have a change in condition. Further evaluation by a health care practitioner is required and changes shall be made to the resident's service plan, if there is a score change in any of the following areas: (a) Cognitive and behavioral status; (b) Ability to self-administer medications; and (c) Behaviors and communication. If the resident's previous assessment did not indicate the need for awake overnight staff, each full assessment or review of the full assessment shall include documentation as to whether awake overnight staff is required due to a change in the resident's condition.
10.07.14.27 Resident Record	.19	<ol style="list-style-type: none"> <li>1. Adds the requirement that a resident be reassessed by the delegating nurse within 48 hours of readmission to the program if the following occurs: (a) Hospitalizations or a 15 day or greater stay in any skilled facility; or (b) There is a significant change in the resident's mental or physical status upon return to the program after an absence from the program. When the delegating nurse determines in the nurse's clinical judgment that the resident does not require a full assessment within 48 hours, the delegating nurse shall: (a) Document the determination and the reasons for the determination in the resident's record; and (b) Ensure that a full assessment of the resident is conducted within 7 calendar days.</li> <li>2. Care notes must be written for each resident on admission and at least weekly, with any significant changes in the resident’s condition, when the resident is transferred from the facility to another skilled facility, on return from medical appointments, when seen in home by any health care provider and on return from nonroutine leaves of absences and when the resident is discharged permanently from the facility. Staff should write care notes that are individualized, legible, chronological and signed by the writer.</li> </ol>
10.07.14.28	.20	<ol style="list-style-type: none"> <li>1. Adds that the assisted living manager is responsible for ensuring that all</li> </ol>

Services		<p>nursing services are provided consistent with the Nurse Practice Act.</p> <ol style="list-style-type: none"> <li>2. Adds “incontinence care” to the listing of items under “personal care services.”</li> <li>3. Removes provisions relating to laundry services. Regulations are now silent as to who is responsible for laundry services.</li> </ol>
10.07.14.29 Medication Management and Administration	.21	<ol style="list-style-type: none"> <li>1. States that the assisted living manager and all staff who administer medications must have completed the medication administration course that is taught by a registered nurse who is approved by the Board of Nursing. Consequently, removes provisions related to the medication training program.</li> <li>2. Requires managers to document the completion of training in each staff’s personnel file or other readily available record.</li> <li>3. All medications must be administered consistent with 10.27.11 – Delegation of Nursing Functions – Under the Board of Nursing.</li> <li>4. Adds the requirement that an AL manager must arrange for a licensed pharmacist to conduct an on-site review of physician prescriptions, orders and resident records at least every six months for any resident receiving nine or more medications, including over the counter and PRN medications. Regulation states what must be examined during the review. This review must be part of the quality assurance review.</li> <li>5. Requires that all Schedule II and III narcotics must be maintained under a double lock system.</li> <li>6. Requires staff to count controlled drugs before the close of every shift.</li> </ol>
10.07.14.30 Alzheimer’s Special Care Units	.06	<ol style="list-style-type: none"> <li>1. Removes the requirement that, on license renewal, the assisted living program has to resubmit a written description of the special care unit. Under this revision, the program must submit a written description upon initial licensure and on renewal the program only has to submit a written description of any changes that have been made.</li> <li>2. Both descriptions must explain how the form of care and treatment provided by the special care unit is specifically designed for the care of individuals diagnosed with Alzheimer’s and how this care differs from the care and treatment provided in the non-special care unit.</li> <li>3. Allows DHMH to restrict admission or close the operation of a special care unit if it determines that the health or safety of residents is at risk.</li> </ol>
10.07.14.31 Incident Reports	.22	<p>No changes, except the definition of “incident” has been altered to include “an injury to a resident which may require treatment” rather than current regulation that states an injury to a resident which requires treatment.</p> <p>The incident report has to also include:</p> <ol style="list-style-type: none"> <li>1. Notification to the resident’s physician, if appropriate, and the delegating nurse</li> <li>2. Follow up activities including investigation of the occurrence</li> <li>3. Steps to prevent the incidents reoccurrence</li> </ol>
10.07.14.32 Records	.23	<p>Simplifies the maintaining of medical records by stating that it has to be for 5 years after discharge rather than based on the residents age. States that an AL program must maintain the privacy and confidentiality of a resident’s medical records, must release medical records only with the consent of the resident or resident’s representative or as permitted under State law, and maintain and dispose of a resident’s medical record in accordance with State law.</p>

10.07.14.33 Relocation and Discharges	.24	States that relocations mean within the facility. Residents and their representatives must be given at least 5 days notice before a non-emergency relocation and obtain the consent of the resident or resident's representative. A discharge is from the facility and notice must be given 30 days before a non-emergent discharge. In the event of an emergency, the program must notify the resident and the resident's representative as quickly as possible and document the reason for the emergency.
10.07.14.34 Resident's Representative	.25	Adds the provision that a licensee who commits financial exploitation of a resident shall be in violation of this chapter as well as applicable civil and criminal laws.
10.07.14.35 Resident Rights	.26	<ol style="list-style-type: none"> <li>1. States that adult day care attendance may be encouraged, but cannot be mandatory. Adult medical day care availability and policies must be disclosure in the program's admission agreement.</li> <li>2. Removes the provision that states that as long as spouses agree to it and are both residents, they may share a room.</li> <li>3. Adds that a resident has the right to choose a pharmacy provider, subject to the provider's reasonable policies and procedures with regard to patient safety in administration of medications.</li> </ol>
10.07.14.36 Abuse, Neglect and Exploitation	.27	Adds the requirement that an assisted living program maintain on-site written documentation of its investigation of all allegations of abuse, neglect or exploitation. Currently, only required to investigate – not keep documentation on-site. Adds financial exploitation to this section. Also, states that a licensee or employee of an assisted living program who has witnessed, or otherwise has reason to believe, that a resident has been subjected to abuse, neglect, or financial exploitation shall report the alleged abuse, neglect, or exploitation within 24 hours.
10.07.14.37 Restraints	NEW	<ol style="list-style-type: none"> <li>1. States that the resident has the right to be free of restraints. A protective device is not considered a restraint.</li> <li>2. Chemicals or drugs may not be used for residents in excessive dose, for excessive duration, without adequate indications for its use, or in the presence of adverse consequences, which indicate the dose should be reduced or discontinued.</li> <li>3. States that residents may not be physically restrained for discipline or convenience or if it is not ordered by a physician.</li> <li>4. States that restraints must be ordered by a physician, cannot be an as needed restraint order, and must be for a specific time period. Physician orders must specify the purpose of the restraint, the type of the restraint and the length of time the restraint can be used.</li> <li>5. The delegating nurse must provide training to staff in the appropriate use of the restraint.</li> <li>6. A resident cannot be restrained for longer than 2 hours without a change in position and toileting opportunity.</li> <li>7. Restraint orders must be renewed every 7 days.</li> <li>8. The program must notify the resident's family or representative about the use of restraints.</li> <li>9. Bed rails may be considered restraints depending upon the reason for the use of bed rails and how the bed rails are used. This determination is based upon the resident and the effect that the bed rails would have upon</li> </ol>

		the resident, as documented in the resident's record.
10.07.14.38 Protection of a Resident's Personal Funds	.28	No Changes.
10.07.14.39 Misuse of Resident's Funds	.29	Changes section from a person who believes that there has been an abuse of a resident's funds to "An individual who witnessed, or otherwise has reason to believe, that there has been an abuse of a resident's funds". Report must be made within 24 hours. Also states that any agency can make a referral to the Medicaid Fraud Control Unit of the Criminal Division of the Office of the Attorney General.
10.07.14.40 Approval of Burial Arrangements	.30	Alters the regulation to require that the AL program must document burial arrangements of the resident within 14 days of admission rather than as soon as possible.
10.07.14.41 General Physical Plant Requirements	.31	<ol style="list-style-type: none"> <li>1. Changes the storage requirements for each resident's rooms to require that the storage be secured, fixed and locked rather than just locked.</li> <li>2. Allows a resident to possess his/her own cleaning supplies and personal hygiene items provided that the manager or delegating nurse determine that the products would not present a threat to the safety of the resident or others and the products are kept in the resident's room and out of view of others when not in use.</li> <li>3. Removed the following two provisions: <ol style="list-style-type: none"> <li>a. Furnishings and equipment supplied by the assisted living program shall be maintained and repaired on a timely basis by the program.</li> <li>b. The assisted living program shall place furnishings in locations convenient for residents' use and in a manner which does not create a hazard to residents.</li> </ol> </li> </ol>
10.07.14.42 Water Supply	.32	Changes the requirement for private water supplies. Rather than having the private water supply to be approved by the Department of the Environment, it has to be approved by the local jurisdiction or a private certified vendor. Increases the maximum hot water temperature from 110 degrees to 120. Minimum remains at 100 degrees.
10.07.14.43 Sewage Disposal	.33	Changes that approval for a private sewage disposal system must be accepted by the local jurisdiction in which the program is located rather than the State Department of Environment.
10.07.14.44 Security	.34	Adds the requirement that the facility must provide an effective automated device or system to alert staff to individuals entering or leaving the building. A facility does not need to use an automated alert for an exit door when the exit is staffed by a receptionist or other staff member who views and maintains a log of individuals entering and leaving the facility. Currently, it just states "device or system" to alert staff of individuals leaving or entering the building.
10.07.14.45 Assist Rails	.35	No Changes
10.07.14.46 Emergency Preparedness	.36	1. Revises emergency plans to conform to House Bill 770, which passed during the 2006 Session. It requires assisted living programs to develop an emergency plan that includes procedures that will be followed before, during and after an

		<p>emergency. The plan must address the following:</p> <ul style="list-style-type: none"> <li>• The evacuation, transportation or shelter in-place of residents;</li> <li>• Notification to families, staff and OHCQ regarding the action that will be taken concerning the safety and well-being of the residents;</li> <li>• Staff coverage, organization and assignment of responsibilities; and</li> <li>• The continuity of operation, including procuring essential goods, equipment and services; and relocation to alternative facilities.</li> </ul> <p>2. Adds the requirement of House Bill 204 that requires all facilities with 50 or more residents to have an emergency electrical power generator that meets the requirements of this section by October 1, 2009.</p>
10.07.14.47 Smoking	.37	No Changes.
10.07.14.48 Common Use Areas	.38	No Changes.
10.07.14.49 Resident's Room and Furnishings	.39	With regard to personal furnishings, adds the provision that the provision of furnishings should be specified in the resident agreement.
10.07.14.50 Bathrooms for Residents	.40	No Changes.
10.07.14.51 Illumination	.41	Changes 30 foot candles of artificial light for reading to a minimum of 60 wattage or the equivalent. Removes provision requiring 15 foot candles of light needed in stairways.
10.07.14.52 HVAC	.42	No Changes.
10.07.14.53 Radiators	.43	No Changes.
10.07.14.54 Laundry	.44	Adds that, unless otherwise agreed by the program and resident, dry cleaning services are not considered part of laundry services.
10.07.14.55 Telephones	.45	Alters the requirements for programs with one to eight beds to have at least one land line for common use rather than just one telephone for common use.
10.07.14.56 Sanctions	.48	No Changes.
10.07.14.57, .58 and .59 Civil Money Penalties and Hearings	.49	Adds that the Secretary may impose a civil money penalty for deficiencies or an ongoing pattern of deficiencies. Alters the penalties by listing the circumstances that the Secretary must consider when levying a civil money penalty and requiring the Secretary to take into consideration several factors when determining the amount of the penalty.
10.07.14.560	.50	1. Changes crimes from misdemeanors to felonies and increases

Criminal Penalties		<p>penalties for knowingly and willfully operating, maintaining or owning an assisted living program without a license to \$10,000 or imprisonment for 5 years or both for a first offense and \$20,000/5 years for a subsequent offense. <b>NOTE:</b> This conforms to House Bill 1036, which passed during the 2006 Session.</p> <p>2. Requires OHCQ to send an individual who may be in violation of the above a notice 30 days before filing charges in order to allow the program to come into compliance.</p> <p>3. Exempts a person who has applied to DHMH for licensure and is awaiting decision regarding application.</p>
10.07.14.61 Health Care Quality Account	NEW	Establishes an account that will be funded by civil money penalties paid by program, which will be used to provide grants to improve quality of care.
10.07.14.62 Emergency Suspension	.51	Adds the provision that, in addition to the right to appeal the Secretary's emergency suspension, the person aggrieved by the decision of the Secretary must be provided with the opportunity for a hearing to show cause why DHMH should lift the summary suspension.
10.07.14.63 Suspension or Revocation of a License	.52	No Changes.
10.07.14.64 Hearings	.52	No Changes.

**Questions - please contact Danna Kauffman, Senior Vice President of Public Policy, [dkauffman@lifespan-network.org](mailto:dkauffman@lifespan-network.org) or at 410-279-5572**

