

**MODEL POLICIES
WITH SUGGESTED PROCEDURES
FOR THE IMPLEMENTATION OF SECTION 63.2-1808**

**A TECHNICAL ASSISTANCE MANUAL
FOR OPERATORS OF LICENSED ASSISTED LIVING FACILITIES**

Virginia Department of Social Services
Division of Licensing Programs
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STATUTORY REQUIREMENT FOR WRITTEN POLICIES AND PROCEDURES

Virginia law requires that the operator or administrator of each licensed assisted living facility have written policies and procedures to ensure that all of the rights and responsibilities stated in Section 63.2-1808 of the *Code of Virginia* are implemented. It also requires that the facility make its policies and procedures available and accessible to residents and their relatives, agencies, and the general public.

FOREWORD

The 1984 Virginia General Assembly passed this law in the belief it would help to ensure the best possible care for residents. While the law focuses on the rights and care to which each resident is entitled, there are likely to be some important additional benefits of this law for the facility as a whole. Respect and courtesy for others and a sensitive consideration for the needs of others are powerfully contagious attitudes in any group of people. The more staff of the facility put the letter and spirit of this law into practice with residents, the more they are likely to find that everyone - staff, residents, relatives, and guests will put these same acts of courtesy, respect, and consideration into practice among themselves and with one another.

As you develop your policies and procedures on resident rights and responsibilities (and as you review and improve them over the years), keep in mind the benefits they can have in creating a positive force in your facility. Sure, there will be problems - such as trying to decide what to do when one individual's rights appear to be in conflict with the rights of another individual. But these problems are small compared to the rewarding experiences that can flow from this law and from the efforts that you, your staff and residents, and staff of the Virginia Department of Social Services share as we work together to ensure the rights and dignity of all residents in care.

PURPOSE OF THESE MODEL POLICIES

As long as the facility complies with the law and with the standards and regulations, it may use its own policies and procedures or the facility may adapt these models and suggested procedures. Please bear in mind that these suggested procedures are not complete. They are intended to be a foundation from which you can build. You will need to insert information and to expand and to change them to suit your facility's needs.

Whether you are using your own policies and procedures or are modifying these models, please be careful to confirm that your policies and procedures will comply with the law and with the regulation Standards for Licensed Assisted Living Facilities. Your licensing inspector will be glad to review your documents to make sure that they will comply.

HOW TO USE THIS MANUAL AND THE MODELS

Introductory Section

The introduction includes definitions and some tips about writing and using policies and procedures. This section will also include a model format for your policies and procedures manual. This format may help you to be sure to include the necessary steps and information and will help you to organize and track your policies and procedures. If you are already skilled in writing policies and procedures, you might prefer to skip or merely skim this introductory section.

Section of Law Being Addressed

The rest of the manual displays fifteen model policies stated under one or more parts of the law itself. These sections of the law were grouped whenever they seemed to fit together and are quoted at the beginning of each model policy so that you can see how the model policy supports each requirement in the law. Some sections of the law had to be repeated because they addressed more than one policy topic.

Related Standards to Be Reviewed and Incorporated

After the law elements, we list the related regulations that you will need to review; again, some of them are repeated under more than one policy. You will need to decide how to incorporate these regulations as you build on the procedures suggested to support the basic policy in the law itself. In this manual, we are not trying to cover all the policies and procedures you might need to stay in compliance with all the standards - only those policies and procedures required by the resident rights and responsibilities law.

Model Policy with Suggested Procedures

Next, the model policy reflecting a section of law is stated. After that you will find its supporting suggested procedures. Please think of these procedures as a place to begin. In many cases you will need to add those steps and methods that your facility uses or plans to use to stay in compliance with the residents' rights and responsibilities law and with the regulations that support the law. In several instances, the suggested procedures are little more than an outline of the things you will need to do to develop your facility's way of doing things. For example, you have to make known the facility's fees and rules of conduct for residents, something only you can supply.

These suggested procedures do not attempt to be very specific about the internal steps a facility would have to take. Instead, they focus on stating what needs to be done. The underlined brackets within the procedures prompt you to decide who will be responsible for something, how often something needs to be done, or where you might need to put something. Only you can decide how much further you need to go because facilities will vary greatly in how detailed they need to make their internal procedures. If yours is a small facility with very little staff or resident turnover, you may not need to go much beyond the suggested procedures. If your facility is a very large operation, you probably already operate with full manuals of procedures on everything from accounting to janitorial routines.

When it seemed to us that there was more than one way to satisfy the minimum requirements of the law, we tried to indicate or describe the options. This does not mean we included, or even thought of, all the possibilities. Do feel free to come up with other options that may work as well or better in your situation and that would still satisfy the essential requirements of the law as well as the related licensing standards.

Additional Suggestions and Notes

You will also find some items under a separate heading, Additional Suggestions. Some are drafted as optional procedures that go a little beyond the essential requirements of the law. You might want to include them in your facility's procedures. Or, you might want to use them as ideas for your program of services and activities even though you do not want to use them as regular procedures for your facility. Some of the "Additional Suggestions" and "Notes" simply discuss difficult or important issues and may help you and your staff to think through your procedures, assignments, supervision, etc.

Copy of the Law

At the end of the manual you will find a copy of the full text of Section 63.2 - 1808, the statute that establishes residents' rights and responsibilities.

A Word of Caution

If you were to try to go straight through the suggested procedures, adding your information and internal steps for getting things done, you would soon realize you had a problem. We wanted to lay out the model policies under the several topics that seemed to belong in the sections of the law itself. The problem created by this approach is that some of the procedures then turn out to be a little overlapped, or else in some cases need to be

brought together for ease of operation. For example, several sections of the law and the standards direct you to inform residents of certain things, either when they are admitted or also yearly or when changes are made. In writing your own operating procedures, you will want to lay out what needs to be done, then go back and look at how things can be conveniently and efficiently combined to fit your facility's way of doing things. And certainly, these particular policies and procedures about residents' rights and responsibilities have to be integrated into your facility's total body of policies and procedures on all subjects. Only you can decide how to take these pieces and make them part of the overall pattern for your facility.

INTRODUCTION: SOME BASICS ABOUT WRITING AND MANAGING POLICIES AND PROCEDURES

What Are Policies and Procedures?

A policy is a general statement of a belief or a principle or a guideline. Its purpose is to express an attitude or value about a particular issue. The residents' rights law requires that you write out your policies in order to make them clear to staff, residents, and others who have a need to know where you stand on these issues. As a matter of fact, the law actually outlines the general policy stance you must take on these issues (although you may, of course, re-state the content in words of your own to make it clearer to your staff and residents), but leaves to you to decide the specifics of your policy. For example, the law directs you to have a policy permitting residents to voice their complaints without fear of retaliation, but you have to decide what procedures and steps you will need to implement that policy.

Procedures are the action steps or the detailed rules you have prescribed to make sure your policies get carried out properly and routinely. The policy is a broadly stated belief about a subject, but the procedures are the routines and assignments you make to carry out these beliefs in the facility's day-to-day activities. Procedures must be specific: WHAT is to be done, BY WHOM, and WHEN.

Some Tips and Principles for Effective Policies and Procedures

These may help when you are writing and managing policies or procedures on any subject, not just on resident rights.

Policies

- A policy is general guidance; it helps to shape one's thinking about a subject; it captures an important belief or principle. It focuses, though, on a single issue, not several loosely related or unrelated issues.

- A policy can be and often it is a little idealistic--something that you always try to achieve, but that you never perfectly or completely achieve to your own satisfaction.

- A policy applies to the whole organization.

- A policy is long-lived. Unless there is a major change in the facility's "world," its policies are likely to stay the same for a number of years. And a true change (not just a relatively minor updating) in policies is a very serious decision for any organization. Even so, you will probably want to review and update your policy statements from time to time. Whenever there is a major change, such as a significant change in laws or regulations or a decision to begin to serve different residents in a different way, you will need a very careful review of all your policies and procedures.

A policy that is a secret or forgotten is useless. A policy should state what is considered really important, but it will not seem important if people rarely discuss it or see it in action. Make sure new people know your policies. Have a regular way to keep people reminded of your policies. The people who especially need to know your policies are your staffs, your residents and their families, as well as the people who make referrals to your facility or do business with it.

Procedures

- A procedure must be a clear and specific, reasonable and practical way to achieve the policy it supports.
- A procedure usually applies only to certain staff, those whose positions are named as being responsible for that procedure.
- A procedure is your rule for how you want things done--and it is your promise to residents and staff about how certain things will be done. Enforce your procedures.
- Procedures often have a shorter useful lifespan than the policies they support. They change because you find a better way to get the job done. They change because you find out they are not working the way you expected. They change because something has changed about the residents in care, the staff, or the services you want to offer. Any new procedure should be reviewed several times in the first year to "fine tune" it. All procedures should be reviewed about once a year to keep them on target.

Procedures are not worth the paper you will use if they just sit in your files. Every procedure or set of procedures needs:

1. Somebody assigned to see that it is carried out the way you intended it to be done;
2. A monitoring plan for that person to follow.

The monitoring plan should include:

- a) How you want them to monitor or check up on how the procedure is being followed (e.g., to observe the staff who are to perform the procedure, to read a sample of records, to ask/survey residents or family to find out whether the procedure is routinely done);
 - b) How often you want the procedures monitored, or how often you want each type of monitoring to occur;
 - c) What you expect to happen when the monitor finds an error. You will probably want the monitor or someone else to find out what happened, when it happened, how long the error has been going on; which staff made the error; why staff are making the error; and what can be done to correct the errors already made as well as what needs to be done to prevent future errors. Your monitor also needs to know when and how to report breakdowns in procedures, depending on how serious they are. You need the monitor to give you enough information to decide whether the breakdowns indicate a need to revise the procedure, a need for extra supervision, for staff training, etc.
3. A person and a plan to train and re-train staff on your procedures. A principle is that refresher training needs to be more frequent for lesser used procedures. Staffs are less likely to get rusty on routines they perform every day---but they may get careless with familiar routines. Carelessness may respond better to closer supervision than to re-training, but the need for training should be assessed.
 4. A scheduled review, about once a year, by the person you assigned to be responsible for the procedure. This person should decide or help you decide whether the procedure should be continued, deleted, or modified.

You will probably find that you need a system to help you organize and manage your policies and procedures. It does not have to be fancy or complicated, but it should lead you to a "format" you use for your facility. You may find it helpful to group your policies and procedures under broad topic headings, such as Personnel, Emergencies, Accounting,

etc. If you are using such a system, you may find it more convenient to integrate all these resident rights/responsibilities policies and procedures into that system under the several topic headings where they might fit. If you do find that more convenient for staff, remember that you will still need to pull out and copy those policies and procedures which the law requires you to make available for residents and others.

Whether or not you organize your policies and procedures under general topic headings, you will need some type of numbering and tracking system. On the next page is a basic format you might find helpful for your policy and procedure manual(s).

Remember that many times you do not need anything except the top part of this type of format. Many procedures are nothing more than a list of the steps you want people to take to perform a particular task, which *may* be one of a whole group of related tasks. One example is probably in your bookkeeping department. Perhaps your real policy is that you operate with generally accepted accounting principles, but that may not mean anything except to you and your accountant. And for purposes of directing staff, you do not need to keep repeating an obvious policy ("We like our books to balance at the end of the month.") when all you want to do is list the steps involved in a particular procedure ("Receipting and Crediting Residents' Personal Spending Accounts.") But, by using the top part of the form, everybody would have quick access to an organized group of accounting procedures and could readily locate the information needed.

Policy & Procedure (Number: Number)

Effective Date: _____

Review Date: _____ (Reviewer's
Initials)

TITLE OF POLICY/PROCEDURE: _____

APPROVED BY: _____

PERSON/POSITION RESPONSIBLE: _____

PERSON/POSITION TO MONITOR: _____

POLICY:

PROCEDURES:

1.

2.

3.

4.

5.

**MODEL POLICY # 1:
ESTABLISHING AND DISCLOSING POLICIES AND PROCEDURES TO
IMPLEMENT RESIDENTS' RIGHTS AND RESPONSIBILITIES**

Section of Law Being Addressed

A. "Any resident of an assisted living facility has the rights and responsibilities enumerated in this section. The operator or administrator of an assisted living facility shall establish written policies and procedures to ensure that, at the minimum, each person who becomes a resident of the assisted living facility..."

D. "The facility shall make its policies and procedures for implementing this section available and accessible to residents, relatives, agencies, and the general public..."

Related Regulations to Review and Incorporate

22 VAC 40-72-390 A. 6&7 – Resident agreement with facility

22 VAC 40-72-550 C – Residents rights

22 VAC 40-72-550 D – Residents rights

Model Policy

It is the policy of [the facility] to abide by all laws and regulations about the rights of residents in assisted living facilities and to make its own policies and procedures for assuring those rights known to residents and their representatives at admission. The facility's policies and procedures will be continuously available and accessible to residents or their representatives, relatives, the general public, and representatives of any public or private agencies who may be involved with residents or with the operation of the facility.

Suggested Procedures

1. The administrator [or other designated position] prepares these policies and procedures which are then adopted by the [licensee/partners/board, etc.]

(Note: You have the option of including a step to ask the licensing inspector to review the facility's procedures.)

2. The [name of position that normally handles admissions] will review and discuss the facility's policies and procedures with new residents prior to or at the time of their admission. Newly admitted residents or their representatives will be told where the policies and procedures are located.

3. The [administrator or other position] will see that a copy of the [policies and procedures document] is kept available in the following location(s): [list]

(Note: A small facility might need only one location, such as the living room or wherever residents normally find reading material. A large facility will need to think about what is truly "accessible" to a large group of people, in a large physical plant; it will need several copies placed throughout the facility.)

4. Upon request, a copy of the [document] will also be given to and/or read and explained to any resident who cannot easily get around the facility or who has difficulty seeing or understanding the [document]. This request may be made to [list appropriate positions].

5. Every [day/week/month/quarter] the [name of position] will check each distributed copy of the facility's policies and procedures document to make sure that it is still in its place and complete.

(Note: The law requires the document to remain accessible, implying that it should be available without staff's assistance for active residents and guests in the facility. How frequently you need to check the copies might be estimated by your experience with other reading matter. It may help to mark the document with a "PLEASE DON'T REMOVE," or "PLEASE RETURN FOR OTHERS TO READ," and "PLEASE DO NOT REMOVE ANY PAGES.")

6. The [administrator or other designated position] will place copies of any newly revised policies and procedures in the selected places described above.

Additional Suggestions

1. At [give time intervals] the [name position] will remind residents that policies and procedures are available by [decide whether posted announcement, group meeting, newsletter, or some other method is best type of reminder].

(Note: This is suggested because residents may in time forget that the policies are available or where the policies are available. Depending on the nature of your residents,

this suggestion might not be necessary if you decided to implement Additional Suggestion # 4.)

2. If the facility has an active resident council, it might want to include a procedure to invite council representatives to participate in drafting or reviewing the procedures. You will want to make clear the role, which is probably advisory rather than decisive.

3. Similarly, the facility might like to involve representative staff in the development and review processes needed to maintain policies and procedures.

4. The facility might also like to plan a series of meetings for interested residents or their relatives in order to go over its policies and to explain how the facility tries to ensure resident rights. This review of procedures is required for all new admissions. The facility is required to review the residents' rights and responsibilities law with all residents at least once a year. Including an annual refresher of the facility's procedures along with the required review of the law seems like a practical and reasonable approach to consider since it would help current residents to stay informed about the facility.

5. The [administrator or other position] will review and recommend any changes in the facility's policies and procedures on residents' rights and responsibilities as necessary, but will complete such review at least annually on [pick a month and day]; the [owner/partners/board] will re-adopt the policies and procedures, with any accepted changes, within [sixty] days after receiving the administrator's recommendations.

MODEL POLICY # 2: STAFF TRAINING

Section of Law Being Addressed

F. "Each facility shall provide appropriate staff training to implement each resident's rights included in this section."

Related Standards to Be Reviewed and Incorporated

22 VAC 40-72-180 C. 6, 7, 10 & 11 – Staff orientation

22 VAC 40-72-280 A. 2 – Volunteers

22 VAC 40-72-280 E & F - Volunteers

22 VAC 40-72-310 – Direct care staff training when aggressive or restrained resident are in care

22 VAC 40-72-700 C.2 – Restraints

22 VAC 40-72-1120 B. 4 – Staff training

See also numerous suggestions throughout these models that staff training be listed as a procedure to implement the required policies for residents' rights and responsibilities.

Model Policy

It is the policy of the [facility] to prepare staff to protect the rights of residents as required by the laws and standards under which the facility operates. When volunteers are used, they will receive required training as appropriate to their duties.

Suggested Procedures

The [administrator or other named position] is responsible for developing and following a plan to ensure that all staff and, where appropriate, volunteers, are observing and protecting resident rights as they carry out their job duties. The [position] will ensure that staff are trained during orientation and [give frequency] in the subject of their responsibilities to protect resident rights as required by state law and related standards and regulations. This training will include familiarizing all staff with the facility's policies and procedures in these matters and providing them with [copies of or easy access to] these policies and procedures.

(Note: The suggested procedures that go with many of the model policies which follow either include or imply a need for staff training. It will probably be easier if you develop the required training plan as the last step. Make a note of the things that will need to be included in your training plan as you develop your facility's procedures – then go back and put all those things in a list as the contents of your training plan.)

**MODEL POLICY # 3:
DISCLOSURE OF TERMS
OF AGREEMENTS FOR SERVICES AND CHARGES**

Section of Law Being Addressed

A. 1. "Is fully informed, prior to or at the time of admission and during the resident's stay, of his rights and of all rules and expectations governing the resident's conduct, responsibilities, and the terms of the admission agreement; evidence of this shall be the resident's written acknowledgment of having been so informed, which shall be filed in his record.

2. "Is fully informed, prior to or at the time of admission and during the resident's stay, of services available in the facility and of any related charges; this shall be reflected by the resident's signature on a current resident's agreement retained in the resident's file.

3. "Unless a committee or conservator has been appointed, is free to manage his personal finances and funds regardless of source; is entitled to access to personal account statements reflecting financial transactions made on his behalf by the facility; and is given at least a quarterly accounting of financial transactions made on his behalf when a written delegation of responsibility to manage his financial affairs is made to the facility for any period of time in conformance with state law."

5. "Is transferred or discharged only when provided with a statement of reasons, or for nonpayment for his stay and is given reasonable advance notice; upon notice of discharge or upon giving reasonable advance notice of his desire to move, shall be afforded reasonable assistance to ensure an orderly transfer or discharge; such actions shall be documented in his record."

7. "Is not required to perform services for the facility except as voluntarily contracted pursuant to a voluntary agreement for services that states the terms of consideration or remuneration and is documented in writing and retained in his record;"

10. "Is free from...and economic abuse or exploitation."

17.f. "In visits with his spouse; if both are residents of the facility they are permitted but not required to share a room unless otherwise provided in the resident's agreements."

Related Regulations to Review and Incorporate

- 22 VAC 40-72-60 - Disclosure
- 22 VAC 40-72-130 – Management and control of resident funds
- 22 VAC 40-72-140 – Resident accounts
- 22 VAC 40-72-150 – Safeguarding resident funds
- 22 VAC 40-72-270 – Staff duties performed by residents
- 22 VAC 40-72-390 – Resident agreement with facility
- 22 VAC 40-72-420 – Discharge of residents
- 22 VAC 40-72-720 – Personal possessions
- 22 VAC 40-72-730 A. – Resident rooms

Model Policy

It is the policy of [facility] to make a full disclosure of its services, charges, rules of conduct, housing assignment methods, rules relating to payments, advance notice requirements and other terms of service at the time of admission and whenever there is a change. The [licensee] will adopt policies and rules which conform to state law and regulations with regard to the facility's services and fees, and will ensure that its operating practices protect the well-being and financial interests of the residents.

The [administrator] will maintain compliance with all laws and regulations about admissions agreements and the management of and accounting for resident funds managed or held by the facility for residents. The facility will exercise due regard for the resident's rights in all financial matters and will exercise its responsibility to protect the resident from economic exploitation.

Suggested Procedures

(Note: The model procedures below are little more than a skeleton of procedures needed to develop/maintain the policies and practices necessary for compliance. Remember that under Model Policy #1 you will have described how your facility goes about developing and making known its policies and procedures. Here, in Model Policy #3 you have to deal with what is in your facility's rules and methods of operating – the required contents of those policies and procedures.

The facility will need to review/update its rules to be sure they are in harmony with the law and regulations. It will also need to develop/revise its internal procedures for making sure staff get the required information to residents, securing their written

acknowledgments where required, etc.

Since most facilities provide informational handouts to applicants for residence, it might be more convenient for the facility to enclose its procedures for policy development and implementation and for informing residents, then attach the following types of information:

- admission and retention criteria and requirements;
- services available, fees, extra charges, billing procedures, and expectations around payment/non-payment;
- rules for resident conduct & handling violations;
- methods, of assigning/reassigning rooms, options for married couples;
- advance notice requirements for withdrawal, charges;
- methods of handling resident funds, reporting schedule;
- notice and assistance given in the event of transfer, discharge, relocation, withdrawal;
- terms of the resident agreement, which apply to all;
- whether the facility employs residents and if so, its methods of determining fair compensation.

1. The [designated position to handle admissions] will explain and discuss its charges and services with residents or their responsible parties both prior to admission and whenever there is a change. The [position] will place the resident's/representative's written acknowledgments of having been informed into the resident's record. These matters may also be reviewed and discussed at any time after admission upon the resident's/representative's request to [list the positions you want requests made to].

2. Whenever a resident is withdrawing from the facility or is being relocated, transferred, or discharged by the facility, the [name of position] is responsible for meeting with the resident and his representative to explain the reasons or to clarify the situation and to offer reasonable assistance prior to and during the move; required documentation will be entered in the resident's record.

3. The [name of position] is responsible for providing all residents with a monthly and/or quarterly accounting of any funds held or managed by the facility as required by regulations. This person is also responsible for answering residents' questions or concerns about their accounts and for consulting with any resident or his representative about transactions made by the facility for the resident.

Additional Suggestion

The [designated position] will make available a copy of the Standards and Regulations for Licensed Assisted Living Facilities whenever residents or their relatives or guardians request information about the rules under which the facility is obliged to operate and will explain those rules and how the facility maintains compliance with them.

(Note: Because so many of the policies and procedures required by the resident rights law have been built into the licensing regulations, the facility may find that making these regulations available and accessible to residents and their representatives is a convenient way to fulfill the facility's general obligations to observe resident's rights and to keep residents generally informed of the facility's practices. The suggested procedure of using the regulations for that purpose will not, however, be repeated under every model.)

**MODEL POLICY # 4:
EXERCISING RIGHTS AS A CITIZEN AND RESIDENT**

Section of Law Being Addressed

A.12. "Is encouraged, and informed of appropriate means as necessary, throughout the period of stay to exercise his rights as a resident and as a citizen...;"

18. "Is permitted to meet with and participate in activities of social, religious, and community groups at his discretion unless medically contraindicated as documented by his physician in his medical record."

Related Standards to Be Reviewed and Incorporated

- 22 VAC 40-72-440 B & C– Individualized service plans
- 22 VAC 40-72-520 I – Activity/recreational requirements
- 22 VAC 40-72-530 – Freedom of movement
- 22 VAC 40-72-540 – Visiting in the facility
- 22 VAC 40-72-550 A – Resident rights
- 22 VAC 40-72-590 – Observance of religious dietary practices
- 22 VAC 40-72-1080- Approval
- 22 VAC 40-72-1090 – Appropriateness of placement and continued residence.

Model Policy

It is the policy of [the facility] to encourage residents' freedom to participate in community life and to exercise their rights as citizens of the community and of this facility and to voice their opinions and suggestions.

Procedures

1. The [designated position] will, at admission, and yearly thereafter, remind residents that they are free to register and vote and to attend or belong to various religious, civic or social groups that may be available in the community. Residents who express an interest in pursuing these outside interests will be provided with any necessary further information or assistance in obtaining such information.

(Note: This requirement in the law can be readily met through the facility's activities and volunteer programs. Once the facility has formally or informally surveyed its residents

for their interests, then the facility can usually find any number of groups who will agree to meet with individual residents or groups of residents who want to participate actively in the social, civic, religious, or political life of the community. The thrust of this requirement in the law includes helping residents to be active themselves, for example, to volunteer to serve the community as opposed to being only the recipients of volunteer services. While residents vary greatly in their strengths and abilities, it is important at every stage of life to have available ways of being useful. If for example, a resident expresses an interest in civic affairs, he may eventually define that as, "I want to be a part of an effort to improve the services to retarded children," and find that he can be helpful by stuffing envelopes requesting donations for the Special Olympics. Because residents first entering the facility may not be able to define their interests, the facility's staff and activities programs need to find regular and ongoing ways to stimulate residents' interests and to help them to find expression for those interests.)

2. If any staff member has reason to be concerned about the resident's medical condition as it relates to any intended activity, the staff member shall first express the reasons for his concern to the resident. If the staff member remains concerned, the matter shall be brought to the attention of [name position] who shall decide whether to seek the physician's advice about the resident's medical ability to engage in that activity.

(Note: The resident must be directly encouraged to follow his physician's advice. However, the law also speaks to a resident's right to refuse treatment at § 63.2-1808 A. 6.)

**MODEL POLICY # 5:
THE RIGHT TO VOICE COMPLAINTS, GRIEVANCES
AND SUGGESTIONS ABOUT THE FACILITY'S OPERATION**

A.12. "Is encouraged, and informed of appropriate means as necessary, throughout the period of stay to exercise his rights as a resident and as a citizen; to this end, he is free to voice grievances and recommend changes in policies and services, free of coercion, discrimination, threats, or reprisal;"

Related Standards to Be Reviewed and Incorporated

22 VAC 40-72-550 – Resident rights

Model Policy

The [facility] will encourage all residents to express their complaints about the facility and to suggest remedies or improvements in its policies and services. [Optional addition: The facility will try to be responsive to residents' reasonable concerns and suggestions. The facility also encourages residents to let staff know when services and policies are satisfactory and should be continued unchanged.]

Suggested Procedures

1. All staffs are expected to listen courteously and respectfully to complaints. If staffs are able to do so, they will attempt to explain the reason the thing being complained about occurred. If the resident is not satisfied, staff will explain the facility's steps for making a complaint that are as follows: [Describe the steps you want staff and residents to follow.]

(Note: Additional Suggestions # 1-2 outline a model grievance procedure.)

2. At no time will any staff member of the facility take any improper action against a resident for making a complaint, whether or not that complaint is valid. The facility will consider dismissing any employee who is found to be threatening, ignoring, humiliating, retaliating, or discriminating against residents who voice complaints.

3. Whenever any staff member observes what appears to be a violation of resident rights or a violation of any of the laws and regulations under which the facility must operate,

whether or not a resident has actually voiced a complaint, the staff member is immediately expected to correct the situation, if possible, and to bring the problem to the attention of [name of position], who will ensure corrective action and, when required, notification of authorities.

Additional Suggestions

1. When a resident voices a complaint to staff, and when staff are unable to satisfy the resident with an explanation for whatever is being complained about, the staff will follow these steps:

a) If the complaint is a simple and legitimate one which is within the staff member's power to resolve to the resident's satisfaction, that shall be done as quickly as circumstances allow.

b) If the complaint involves something outside that staff member's responsibilities, the staff member is expected to tell the resident that there are three ways the complaint can be handled:

- that staff member can try to explain the resident's complaint to the appropriate staff person;

- the resident can directly request an appointment to discuss the complaint with [name the position the facility designates to deal with resident complaints]

- the resident can also contact the state licensing or aging representatives, which the staff member will help him to do; the resident is to be reminded that contact information is posted in [wherever these required postings are located].

c) The staff member will provide whatever assistance is needed to help the resident exercise his choice(s) for resolving the complaint.

2. The [designated staff] will follow up on all resident complaints within [time frame] to explain to the resident what can or cannot be done to remedy his complaint or to implement his suggestion.

3. Suggestion boxes, paper and pencils will be located at [places]. Suggestion boxes will have signs inviting residents, staff, and visitors to make suggestions for improving the facility's practices and services. All suggestions, which may be signed or unsigned, will

be considered for implementation by [name position or group] within [state time frame].

4. The facility will encourage and assist residents to form an active Resident's Council. The [name position] will meet with the Council or its officers [give frequency] to receive suggestions and to review progress or problems in implementing its suggestions.

5. The facility will encourage residents' relatives and representatives to form an advisory committee to advise the facility on how it might be more responsive to their complaints, problems, and suggestions. The [name position] will meet [give frequency] with the committee or its officers to receive advice and to review progress or problems in implementing its suggestions.

(Note: If you are using or plan to use resident councils or a relatives' advisory committee, remember that these groups can have a role that goes well beyond identifying problems and complaints. They can help with projects that might bring extra services or equipment into the facility for the residents' greater pleasure or comfort - such as raising money for special outings or a large screen TV, etc.)

MODEL POLICY # 6: CONFIDENTIALITY OF INFORMATION

Section of Law Being Addressed

A. 4. "Is afforded confidential treatment of his personal affairs and records and may approve or refuse their release to any individual outside the facility except as otherwise provided in law and except in case of his transfer to another care-giving facility;"

9. "Is free to refuse to...be party to research in which his identity may be ascertained..;"

Related Standards to Be Reviewed and Incorporated

22 VAC 40-72-180 C 6 - Staff orientation

22 VAC 40-72-280 A 2 - Volunteers

22 VAC 40-72-560 - Resident records

22 VAC 40-72-570 - Release of information from resident's record

Model Policy

The facility will not disclose confidential information about its residents except as directed by law or when they consent.

Suggested Procedures

1. The [name of position] is responsible for maintaining the security, confidentiality and correct usage of information in the resident's record as required by law and regulations.

2. All staff and volunteers of the facility will be trained and supervised to ensure that they do not knowingly or carelessly reveal private or confidential information about residents. This is the responsibility of [name responsible manager/administrator].

(Note: The part of this procedure that mentions staff training could, of course, already be covered by a procedure that would fit under Model Policy #2 that addresses staff training. If you decide to organize it that way, all you would need to deal with is assigning responsibility for the supervision of staff to ensure that confidentiality of records and personal information is maintained.)

3. The [position] is responsible for seeing that whenever the resident or his legal

representative authorizes the release of information, an "Authorization for the Release of Information" form shall first be signed and placed in the resident's record before that information is released.

MODEL POLICY # 7: MEDICAL CARE RIGHTS

Section of Law Being Addressed

A. 6. "In the event a medical condition should arise while he is residing in the facility is afforded the opportunity to participate in the planning of his program of care and medical treatment at the facility and the right to refuse treatment;"

8. "Is free to select health care services from reasonably available resources;"

16. "Is free of prescription drugs except where medically necessary, specifically prescribed, and supervised by the attending physician;"

Related Standards to Be Reviewed and Incorporated

22 VAC 40-72-440 A-C - Individualized service plans

22 VAC 40-72-450 B & C – Personal care services and general supervision and care

22 VAC 40-72-460 A.3 – Health care services

22 VAC 40-72-460 F – Health care services

22 VAC 40-72-670 – Administration of medications and related provisions

Model Policy

Insofar as possible, the facility will assist residents to use their preferred health care providers and to participate in planning their programs of care and services while in the facility, and will respect each resident's decisions about accepting or refusing medical care.

Suggested Procedures

1. The [name of position] is responsible for helping each resident to select health care providers from among those reasonably available, both at admission and whenever the resident wishes to add or change providers.

2. The [name of position] will confer with residents who become ill or who have a chronic medical condition to ensure the resident of an opportunity to participate in planning an appropriate program or care and medical treatment in the facility.

3. The [name of position] will talk with any resident who is refusing necessary medical

care about the possible results of that decision or will ask the resident's physician, family, or some other appropriate resource to counsel with the resident. If the facility has reason to question the mental competence of the resident, [position] will discuss the question with local mental health or adult protective services for guidance on how to resolve the question of competence.

4. The [position] will re-evaluate the facility's ability to continue to care for any resident who is exercising his right to refuse medical treatment and will establish a plan to continue to make such re-assessments of the resident's condition and the facility's ability to provide care at time intervals suitable to the circumstances.

5. The [name of position] will ensure that no unauthorized medical care or medications are administered to residents of the facility by assuring that physician's orders are carefully followed and by checking on the expiration dates of orders, prescriptions, and staff authorizations to administer medications or special services. The [position] will also keep a check on any other matters required to support residents' medical care.

**MODEL POLICY # 8:
CONSENT TO HUMAN SUBJECT RESEARCH**

Section of Law Being Addressed

A. 9. "Is free to refuse to participate in human subject experimentation or be party to research in which his identity can be ascertained;"

Model Policy

The facility will neither engage in nor permit human subject research or experimentation which does not conform to all relevant laws, regulations, and ethical requirements for human research.

Residents must make informed consent to any such research before it is conducted, and no information about residents for research purposes will be released without the resident's consent if the resident's identity could be ascertained by that release.

Suggested Procedures

1. The [position] will review research requests and be responsible for determining that the research conforms to applicable standards, has been reviewed by an authorized committee on ethics in research, and that any resident who chooses to participate has given proper, informed consent.

2. The [position] will contact the facility's licensing inspector for assistance or information to locate expert consultation if the facility is uncertain whether proper research procedures have been followed in any request it is evaluating.

MODEL POLICY # 9: RIGHT TO DIGNITY

Section of Law Being Addressed

A. 10. "Is free from mental, emotional, physical, sexual, and economic abuse or exploitation; is free from forced isolation, threats or other degrading or demeaning acts against him; and his known needs are not neglected or ignored by personnel of the facility;"

11. "Is treated with courtesy, respect, and consideration as a person of worth, sensitivity, and dignity;"

Related Standards to Be Reviewed and Incorporated

22 VAC 40-72-120 - Administrator

22 VAC 40-72-170 A 3 - Staff general qualifications

22 VAC 40-72-180 C. 6, 7, 8, 10 & 11 – Staff orientation

22 VAC 40-72-440 C – Individualized service plans

22 VAC 40-72-720 – Personal possessions

22 VAC 40-72-1020 B 4 – Training on caring for residents with dementia

22 VAC 40-72-1160 C – Special environmental enhancements

Model Policy

It is the duty of the facility to protect its residents from any form of abuse or exploitation and to ensure that residents are treated with respect and consideration at all times.

Suggested Procedures

1. The [name of position] will use job descriptions, interviews, and reference checks to screen, select and employ only those staff considered able to perform their job duties in a considerate and respectful manner.

2. The [name of position] will include in the facility's training program an emphasis on being respectful, considerate, and appropriately protective toward residents.

(Note: You may prefer to put this under Model Policy #2 since it deals with staff training.)

3. The [supervisory positions] will monitor staff's interactions with residents:
- Any staff member who is discourteous to residents and who does not immediately respond to disciplinary supervision will be subject to dismissal.
 - Any allegation of physical, sexual, or economic abuse or exploitation will be brought to the immediate attention of the [administrator and/or licensee]. Confirmed physical, sexual, or economic abuse of residents will result in dismissal.
 - The [administrator and/or licensee] will suspend the accused employee pending outcome of investigations, remove him from contact with residents or otherwise see that residents are protected during the investigations;
 - The [position] will also immediately report the allegation to the local department of social services or to the adult protective services hotline and to the licensing inspector. While either of these authorities may refer the matter to law enforcement authorities for criminal investigation and prosecution, such report is also an option to the facility and the alleged victim.
 - The [position] will, after providing any immediately necessary care to the alleged victim, assist him with his wishes in the matter, e.g., to contact the State Ombudsman, to file a police report, etc.
4. The [name of position responsible for admission/discharge decisions] will screen admission requests to ensure that any person seeking admission to the facility will not pose a threat to the safety and dignity of its current residents:
- The [position] will also review all serious incidents involving resident behavior to determine whether the facility should make an involuntary discharge in order to protect other residents.
 - When a resident is alleged to have been physically, sexually, or economically abused or exploited by another resident or by a guest in the facility, the [position] shall report the incident to the local department of social services or to the adult protective services hotline and to the licensing inspector and generally follow the same procedures outlined to handle allegations of abuse by staff.

(Note: It is clearly understood that some residents in assisted living facilities have medical or psychiatric conditions that cause them to be disagreeable and disrespectful to other residents as well as to staff. The facility will need to be mindful of its obligations to protect and/or separate other residents from those annoying but essentially non-dangerous behaviors. (If the behavior is a clear threat to the safety of others, the facility must discharge.) When the offending residents can be trained or re-trained in more socially acceptable behaviors, this, of course, should become a priority in those residents' service plans. There may be helpful consultation available from a variety of sources, including the attending physician, the mental health services in the community, other facility owners who have dealt with similar problems, and the licensing inspector who may be able to suggest other resources or to help to arrange special staff training.

**MODEL POLICY # 10:
USE OF PERSONAL POSSESSIONS**

Section of Law Being Addressed

A. 13. "Is permitted to retain and use his personal clothing and possessions as space permits unless to do so would infringe upon rights of other residents;"

Related Standard to Be Reviewed and Incorporated

22 VAC 40-72-720 – Personal possessions

Model Policy

Insofar as possible, the facility will encourage each resident to maintain his/her identity and independence by retaining and using personal belongings while in the facility.

Note: Only the facility can develop the sub-policies and procedures for implementing them. The facility must decide, and reflect in its admissions agreement and discussions with residents, what it can and cannot allow. There may be other items that are not so pre-determined, but will instead depend on other factors such as the preferences of roommates or the size and condition of the items the resident wants to bring. Don't forget to think about such categories as:

- furniture (beds, chairs, chests, etc)
- furnishings (rugs, curtains spreads, pillows)
- appliances (lamps, TVs, radios, stereos, toasters, coffee makers) .
- decorations (paintings, posters, knick-knacks, mirrors)
- personal mementos (family photographs, scrapbooks, plaques)
- personal clothing
- personal books, craft/hobby materials/tools
- cars or other vehicles

You'll also have to give some thought to how your policy decisions figure into your fee structure. For example, the facility is probably responsible for laundering/cleaning bedspreads and curtains. If the resident prefers and you allow him to bring a down comforter and satin draperies, it needs to be clear whether you or the resident will be responsible for their cleaning and whether you will or will not reduce his laundry fee if he

is responsible. You will need to think about whether or how your insurance policies may be affected if residents bring their possessions into the facility.

The conditions or restrictions you decide to set on personal possessions need to be reasonable, however, so that it does not appear that the facility is using its rules or fee structure to discourage residents from exercising their conditional right to bring any personal possessions that do not infringe on the rights and safety of others.

Suggested Procedures

Once you have worked out an approach that is reasonable for your facility, develop supportive procedures that will outline the basic steps for implementing your policy and that establishes responsibility among the staff for carrying it out. Some areas that come to mind are:

- making sure new admissions are properly informed and incorporating these policies/procedures into the group of policies/procedures kept available for residents and others;
- deciding how to handle conflicting preferences among roommates such as the "arbitrator" approach mentioned under Model Policy #13;
- deciding how to handle safety problems that may arise. For example, if you decide to allow rugs, you will need to have some way to ensure that they will not increase the trip hazards in the room, and you'll need to be sure that any appliances are kept in safe working order and do not pose a hazard or a fire violation.

MODEL POLICY # 11: RIGHT TO APPROPRIATE CARE AND INDEPENDENT FUNCTIONING

Section of Law Being Addressed

- A. 10. "...and his known needs are not neglected or ignored by personnel of the facility;"
- A. 14. "Is encouraged to function at his highest mental, emotional, physical and social potential;"

Standards to Be Reviewed and Incorporated

- 22 VAC 40-72-440 A & C -Individualized service plans
- 22 VAC 40-72-450 – Personal care services and general supervision and care
- 22 VAC 40-72-460 – Health care services
- 22 VAC 40-72-470 – Restorative, habilitative and rehabilitative services
- 22 VAC 40-72-500 A & B – Mental health services coordination support and agreements
- 22 VAC 40-72-520 – Activity/recreational requirements
- 22 VAC 40-72-580 – Food service and nutrition
- 22 VAC 40-72-650 – Resident care and related services
- 22 VAC 40-72-1100 - Activities
- 22 VAC 40-72-1160 C – Special environmental enhancements in a special care unit

Model Policy

It is the policy of this facility to encourage all residents to function at the highest possible level of independence: mentally, emotionally, physically, and socially. The facility has a duty to provide appropriate care and service to each resident whom it admits or retains, neglecting no identified needs of persons in its care.

Suggested Procedures

1. The [name of position] will train and supervise all staff in the skills and attitudes necessary to identify resident needs and to encourage residents to function as independently as is reasonable for their conditions.

(Note: Again, you may prefer to put this under Model Policy #2, which addresses staff training.)

2. The [name of position responsible for developing/reviewing service plans] will ensure that the needs of individual residents are assessed on admission, at least every year thereafter, and more often if needed. Any needed service plans will be developed, and revised as necessary, with a general goal of maintaining and/or promoting each resident's optimal level of functioning.

3. All staffs are expected to watch for unmet needs of residents and to report their suggestions or questions to [name of position responsible for assessing residents and maintaining service plans]

4. The [position responsible for .activities in the facility] will provide a variety of activities to encourage residents to remain interested and active.

(Note: While the element of the law addressing assistance to maintain highest potential is really at the heart of all good care giving, it is not an easy one to state in specific procedures. Rather, it is one that you will either see or not see in almost every act of service and care giving in a facility.

- Do the staffs take the extra time to encourage and allow a resident to continue to feed himself until he tires, or do they immediately take over and feed the resident?
- Do they encourage and assist a resident to start a conversation with staff or other residents, or do they permit the resident to withdraw socially?
- Do they try to encourage socialization, not just in planned activities, but in the way they arrange the furniture or by asking the resident questions as they go about their own care giving services?
- Do they too quickly sympathize with the resident who says he doesn't feel like doing something, or do they gently try to encourage that resident to do that activity or some part of that activity?
- Do they also notice and offer comments/compliments when a resident is being active/independent/sociable/cheerful, or do those residents who "give up" or who have "problems" get most of the sympathy/attention?

The facility's training and supervision of all its staff and services will ultimately determine whether its residents tend to deteriorate or to deteriorate faster than they would have with stimulation and encouragement. As staff are first learning these skills/attitudes and whenever they are assigned a new resident, the supervisors must take care that they strike the proper balance to encourage, but not to push a resident to do more than he can really manage.

MODEL POLICY # 12: USE OF RESTRAINTS

Sections of Law Being Addressed

A. 10. "...is free from forced isolation,"

A.15. "Is free of physical or mechanical restraint except in the following situations and with appropriate safeguards:

- a. As necessary for the facility to respond to unmanageable behavior in an emergency situation which threatens the immediate safety of the resident or others;
- b. As medically necessary, as authorized in writing by a physician, to provide physical support to a weakened resident;"

A.16. "Is free of prescription drugs except where medically necessary, specifically prescribed, and supervised by the attending physician;"

Standards to Be Reviewed and Incorporated

22 VAC 40-72-310 – Staff training when aggressive or restrained residents are in care

22 VAC 40-72-530 - Freedom of movement

22 VAC 40-72-670 – Administration of medication and related services

22 VAC 40-72-700 – Restraints

Model Policy

The facility will use no form of physical or mechanical restraint except as authorized in law and regulations to handle unavoidable emergency situations or to provide support to physically weakened residents. The staff of the facility will in no way encourage residents or their physicians to use medications primarily for the management of inconvenient behavior. The staff will at no time require a resident to stay in his room nor force a resident to remain in a room.

Suggested Procedures

While it is not specifically required by standards, all facilities may wish to consider the wisdom of securing training on caring for aggressive or restrained residents for a

sufficient number of direct care staff. Even though you do not plan to provide service to residents with a history of agitated or aggressive behavior, there is always the risk that a previously manageable resident will suffer a medication reaction or other sudden outburst. If that occurs, staff would then be better able to protect the resident and themselves or other residents until other arrangements could be made.)

1. The [position] is responsible for seeing that staff are properly trained in all procedures and regulations related to the use of emergency or supportive restraints. The [position] is responsible for ensuring that sufficient specially trained direct care staff providing services to residents in supportive restraints or to residents with a history of aggressive or agitated behavior are accessible to those residents in accordance with regulations.

2. The following steps are to be followed when a resident begins to become agitated or aggressive:

a) The [person/position with the special training] will be called to the scene; all efforts will be directed toward calming the resident and preventing the need for restraint. The [whatever supervisory or administrative person you want on the scene for emergencies] will be called.

b) If restraints are applied, the [specially care staff] will supervise their application, will keep the resident in sight and sound at all times, will perform resident monitoring at no more than 30-minute intervals, and will continue efforts to calm the resident. As soon as the resident no longer poses a threat to himself or others, as determined by [the position], the resident will be released from restraint.

c) The [supervisor or other staff on scene until the person designated to supervise emergencies arrives] will call the physician and secure advice; the resident's next-of-kin shall also be notified.

d) If it becomes apparent that the resident will not respond to the treatment ordered and will exceed the two-hour limit for restraint, the [position] shall arrange either an emergency transfer to a medical facility or shall arrange for a mental health crisis team to assist the resident in the facility.

e) The [position] is responsible for all required documentation, such as entering the time, date, and reasons for restraint into the resident's record, notations that the physician and family were notified, notations of the physician's advice, the time of each care and monitoring service contact provided, the time when the resident was removed from

restraint or transferred, etc. The [position] will follow up with the physician if the written confirmation of his advice is not received within [name the timeframe].

f) The [position] will decide whether the resident can be safely maintained in the facility and whether a resident remaining in the facility needs a change in his service plan or whether an involuntary discharge should be made.

g) The [administrator or department head] will review the incident and its handling within [probably no than three days is best] to determine that everything possible was done to prevent the outburst and that all procedures were correctly followed during the emergency; he will direct any necessary corrections and follow up services for the resident.

3. The [administrator, licensee, or upper level manager] will approve any request for the admission or retention of a resident who needs supportive restraints and for the retention of a resident who becomes bedfast. The approval will be granted only if [position] determines that the facility can comply with the special regulations (e.g., approved building, availability of sufficient specially trained staff).and can provide the necessary extra care and services (e.g., extra staff time, special equipment or supplies, properly developed emergency evacuation plan, etc) without interfering with the service needs of other residents.

4. When a supportively restrained or bedfast resident is in care, these steps will be followed:

a) The [position] is responsible for assuring that each resident receives the required preventive care to avoid bedsores, contractures, and other risks of prolonged immobility/supportive restraints. Specially trained staff, whose training is current, will provide these services at two-hour intervals and make the required notations to be entered into the resident's record at [monthly intervals are sufficient if you follow the practice of keeping a Record of Restraint Usage on the resident]. Other special services ordered by the attending physician shall be provided as scheduled.

(Note: A model form, "Record of Restraint Usage") is available on the Department's public website at:

<http://www.dss.virginia.gov/files/division/licensing/alf/forms/032-05-0029-03-eng.pdf>

b) The [position] is responsible for arranging appropriate activities for the supportively restrained or bedfast resident such that their special needs for social/emotional support

and stimulation are met.

c) The [position] is responsible for ongoing assessment of the resident's condition to determine that the facility can continue to meet his needs. The physician shall be consulted if there is reason to question whether the resident has reached a need for nursing facility care.

5. The [name of position] will be responsible for determining that in carrying out their responsibilities to report information to attending physicians, staff of the facility do not knowingly or inadvertently encourage greater usage of medication or restraints to make care more convenient to give.

(Note: This is a delicate but important area. Physicians rely a good deal on reports of others in gauging the need to adjust certain medications. Staff who are not well trained in dealing with .troublesome residents can easily paint a picture of a resident's needing more drugs when the truth may be that the staff need more training or the facility needs more staff.)

Additional Suggestions

The [position] is responsible for tracking all medical services: ensuring that medication is provided as prescribed by properly authorized staff; ensuring that prescriptions are refilled as ordered; ensuring that the physician (or other authorized health professional) sees the resident at intervals no longer than 90 days; ensuring that any special diets or other services are provided as needed or directed; ensuring that all required documentation is kept current in the resident's record.

MODEL POLICY # 13: RIGHT TO PRIVACY

Sections of Law Being Addressed

17. "Is accorded respect for ordinary privacy in every aspect of daily living, including", but not limited to the following:

- a. In the care of his personal needs except as assistance may be needed;
- b. In any medical examination or health related consultations the resident may have at the facility;
- c. In communications, in writing or by telephone;
- d. During visitations with other persons;
- e. In the resident's room or portion thereof; residents shall be permitted to have guests or other residents in their rooms unless to do so would infringe upon the rights of other residents; staff may not enter a resident's room without making their presence known except; in an emergency, or in accordance with safety oversight requirements included in regulations of the Board;
- f. In visits with his spouse; if both are residents of the facility they are permitted but not required to share a room unless otherwise provided in the residents' agreements;"

Standards to Be Reviewed and Incorporated

22 VAC 40-72-730 B.7 – Window coverings

22 VAC 40-72-780 – Incoming and outgoing mail

22 VAC 40-72-890 B – Bathrooms

22 VAC 40-72-790 C - Telephones

Model Policy

To the extent possible, residents will have all the privacy rights that any citizen would in his own facility or apartment. The facility will abide by all laws and regulations pertaining to resident privacy rights and will adopt no house rules that unnecessarily abridge any resident's privacy rights.

Suggested Procedures

1. The [position] is responsible for reviewing any proposed house rules to ensure that they do not unlawfully limit a resident's privacy rights and that they reasonably promote a

respect for the privacy rights of all residents as a group.

2. The [position] is responsible for mediating or resolving conflicting privacy needs among residents when the residents cannot negotiate or resolve these differences themselves. Residents shall be informed that this service is available [describe how you would like this staff person to be contacted]

3. The [position] is responsible for reviewing all care giving procedures to ensure that normal privacy is maintained while the resident is receiving such personal or medical care.

(Note: For example, if staff is giving a resident a bed bath, the training/procedures should include covering other portions of the resident's body while bathing that portion that must be exposed. The resident being bathed should be screened from the view of other residents/staff/guests in some way. Additionally, staff need to be trained and supervised in how to carry out the normal courtesies implied in this statute. For example, they should remove themselves to a discreet distance to give a resident telephone privacy. They should knock and seek permission to enter a resident's room unless they are making nightly rounds, in which case they would not awaken the resident to check on his safety.

It is acknowledged that some facilities may have problems in implementing privacy rights. One resident's privacy needs may conflict with another s. The right to privacy could be exercised in a way that it would conflict with the facility's view of what would be its duty to protect residents from exploitation by outsiders or by other residents. These situations will likely best be handled on a case-by-case basis not only with each facility and its population-in-care, but also as the problem situations arise. At this point, the best advice is for facilities to set up a procedure or system that will try to deal with any problems that may arise - some way to weigh and balance the rights and needs of various individuals when there appears to be a conflict.

Some residents, because of their disabilities, may be limited or unable to respect the privacy and property rights of others. The facility may be forced to review its admissions practices if it cannot prevent these residents from unduly infringing on the rights of others. Some greater care in making unit or room assignments and/or greater supervision of these residents may prevent their infringing-on other residents' rights. As is true of all rights, however, the greatest opportunity to resolve problems is through teaching people to be more sensitive to the rights of others. When residents are helped to understand that their roommates and facility-mates have an equal right to privacy and consideration, it is likely that many problems or potential problems will take care of themselves.

Additional Suggestion

The following rooms are made available for residents to use for private visiting: [list, and give locations]. These rooms are available [give days and hours, or if that varies, state that]. Residents may reserve these rooms to visit with their guests by signing up at [give place or name of person who handles the calendar for the rooms]. [If you have any rules about priority uses, such as medical consultations taking priority over social visiting, or about the frequency a resident may use the room, or leaving it in good order, etc., state these as well.]

MODEL POLICY #14: SEEKING A RIGHTS ADVOCATE

Sections of Law Being Addressed

B. "If the resident is unable to fully understand and exercise the rights and responsibilities contained in this section, the facility shall require that a responsible individual, of the resident's choice when possible, designated in writing in the resident's record, be made aware of each item in this section and the decisions that affect the resident or relate to specific items in this section; a resident shall be assumed capable of understanding and exercising these rights unless a physician determines otherwise and documents the reasons for such determination in the resident's record."

Model Policy

The facility shall generally assume that all residents are capable of understanding and exercising their rights unless a court or physician determines otherwise. However, when the facility has reason to be concerned about a resident's ability to understand and exercise his rights, the facility has a duty to resolve the question.

Suggested Procedures

1. The [position] will seek the opinion of the attending physician whenever there is concern about a resident's ability to understand and exercise his rights.
2. The [position] will develop a list of situations which shall be considered sufficient reason for the facility to seek that opinion. The following positions [list, unless you prefer that all staff be responsible for forwarding questions] are expected to refer questions about residents' abilities to understand to the [position] to determine whether the physician should be consulted.

(Note: Most residents, even those with some degree of mental retardation can probably learn to understand and exercise their rights in time if the staff is skilled and patient in going over them. However, those residents with severely limited intelligence, with advanced dementia, with active psychiatric disorders, or with severe cognitive impairment may well be unable to understand and exercise their rights. The facility, reviewing its own population-in-care and its success in helping residents to understand the material, should list the "cues and/or conditions it thinks are reasonable for triggering a referral to a physician.)

3. Once it has been determined that a rights representative/advocate is needed, the resident will be consulted, if possible, about selecting someone to serve for him. If the resident is unable to select a representative/advocate, or if he is unable to find someone willing to serve, the facility will assume responsibility for nominating or appointing one for the resident in the following steps:

a) The first effort will be to nominate a willing person outside the facility. The following types of persons will be contacted and asked to serve: legal committee or conservator, or person already serving as the resident's legal representative or responsible party or payee; the family member or friend who arranged the resident's admission; the known family members in order of their proximity and demonstrated closeness to the resident; friends or spiritual advisors; area aging ombudsman or volunteers recommended by the agency; capable volunteers already in service at the facility through religious or civic organizations; staff of social or mental health services agency who are involved with the resident.

b) When no outside rights advocate can be secured, as a last resort the facility will appoint a member of its own staff to serve in that capacity for the resident. The facility will select a staff person who is adjudged to be relatively free of strong conflict of interest in that resident's care and who is adjudged capable of exercising an advocate's responsibilities with an independent mind.

c) The resident will again be consulted unless it is clearly not reasonable to do so and asked for his consent to the nominated person's serving as his rights advocate.

(Note: While these appointed rights representative/advocates carry no real legal responsibility nor specific roles and duties, the law implies a strong moral obligation for anyone who assumes the responsibility for incapacitated residents. All of us "guard" our rights and speak out on things that affect us from our vantage point; we know and can tell others when something being done or said feels inconsiderate or insufficient. These residents need someone who can try to feel their experiences with/for them - and who can speak for them so that others can become more sensitive to how the residents are being impacted by day-to-day decisions and operations. Undoubtedly, some training would be helpful for people assuming this role as well as for the staff person who will be receiving the advocate's advice on behalf of a resident.)

Additional Suggestion

The [position] will ask each resident or responsible party at admission to nominate a

potential rights representative/advocate in the event the resident should need one during his stay.

**MODEL POLICY # 15: INFORMING RESIDENTS OF THEIR RIGHTS
AND RESPONSIBILITIES**

Sections of Law Being Addressed

A. 1. "Is fully informed prior to or at the time of admission and during the resident's stay, of his rights and of all rules and expectations governing the resident's conduct, responsibilities, and the terms of the admission agreement; evidence of this shall be the resident's written acknowledgment of having been so informed, which shall be filed in his record;"

A. 19. "Is fully informed, as evidenced by the written acknowledgment of the resident or his legal representative, prior to or at the time of admission and during his stay, that he should exercise whatever due diligence he deems necessary with respect to information on any sex offenders registered pursuant to Chapter 9 (§ 9.1-900 et. seq.) of Title 9.1, including how to obtain such information. Upon request, the assisted living facility shall assist the resident, prospective resident, or the legal representative of the resident or prospective resident in accessing this information and provide the resident, prospective resident, or the legal representative of the resident or prospective resident with printed copies of the requested information;"

C. "The rights and responsibilities of residents shall be printed in at least twelve-point type and posted conspicuously in a public place in all assisted living facilities. The facility shall also post the name and telephone number of the regional licensing supervisor of the Department, the Adult Protective Services' toll-free telephone number, as well as the toll-free telephone number for the Virginia Long-Term Care Ombudsman Program, any sub-state ombudsman program serving the area, and the toll-free number of the Virginia Office for Protection and Advocacy."

D. The facility shall make its policies and procedures for implementing this section available and accessible to residents, relatives, agencies, and the general public.

Standards to Be Reviewed and Incorporated

22 VAC 40-72-55 – Registration

22 VAC 40-72-367 – Sex offender screening

22 VAC 40-72-390 A. 6 & 7. – Resident agreement with facility

22 VAC 40-72-550 F. – Review of resident rights

Model Policy

The facility will ensure that residents and/or their representatives are informed of the rights and responsibilities of residents in assisted living facilities as stated in §63.2-1808 of the Code of Virginia.

Suggested Procedures

1. On admission and at least annually thereafter, the [position] will inform residents of their rights and responsibilities in accordance with the requirements of that law and the licensing regulations of the Department of Social Services.
2. At least once a year the [position] will meet with all residents in groups or individually, if necessary, to review the - provisions of the law, §63.2-1808.
3. Whenever the facility adopts a change in its rules and expectations governing residents' conduct and responsibilities, the [position] will inform all residents either in groups or individually, if necessary, and will ensure that each resident's agreement is updated.
4. The [name of position] is responsible for [choose suitable time interval] inspections to ensure that the rights and responsibilities are posted as required and that copies of the policies and procedures for implementing residents' rights are available and accessible.

RIGHTS AND RESPONSIBILITIES OF RESIDENTS OF ASSISTED LIVING FACILITIES

§ 63.2-1808. Rights and responsibilities of residents of assisted living facilities; certification of licensure.

- A. Any resident of an assisted living facility has the rights and responsibilities enumerated in this section. The operator or administrator of an assisted living facility shall establish written policies and procedures to ensure that, at the minimum, each person who becomes a resident of the assisted living facility:
1. Is fully informed, prior to or at the time of admission and during the resident's stay, of his rights and of all rules and expectations governing the resident's conduct, responsibilities, and the terms of the admission agreement; evidence of this shall be the resident's written acknowledgment of having been so informed, which shall be filed in his record;
 2. Is fully informed, prior to or at the time of admission and during the resident's stay, of services available in the facility and of any related charges; this shall be reflected by the resident's signature on a current resident's agreement retained in the resident's file;
 3. Unless a committee or conservator has been appointed, is free to manage his personal finances and funds regardless of source; is entitled to access to personal account statements reflecting financial transactions made on his behalf by the facility; and is given at least a quarterly accounting of financial transactions made on his behalf when a written delegation of responsibility to manage his financial affairs is made to the facility for any period of time in conformance with state law;
 4. Is afforded confidential treatment of his personal affairs and records and may approve or refuse their release to any individual outside the facility except as otherwise provided in law and except in case of his transfer to another care-giving facility;
 5. Is transferred or discharged only when provided with a statement of reasons, or for nonpayment for his stay, and is given reasonable advance notice; upon notice of discharge or upon giving reasonable advance notice of his desire to move, shall be afforded reasonable assistance to ensure an orderly transfer or discharge; such actions shall be documented in his record;
 6. In the event a medical condition should arise while he is residing in the facility, is afforded the opportunity to participate in the planning of his program of care and medical treatment at the facility and the right to refuse treatment;
 7. Is not required to perform services for the facility except as voluntarily contracted pursuant to a voluntary agreement for services that states the terms

of consideration or remuneration and is documented in writing and retained in his record;

8. Is free to select health care services from reasonably available resources;
9. Is free to refuse to participate in human subject experimentation or to be party to research in which his identity may be ascertained;
10. Is free from mental, emotional, physical, sexual, and economic abuse or exploitation; is free from forced isolation, threats or other degrading or demeaning acts against him; and his known needs are not neglected or ignored by personnel of the facility;
11. Is treated with courtesy, respect, and consideration as a person of worth, sensitivity, and dignity;
12. Is encouraged, and informed of appropriate means as necessary, throughout the period of stay to exercise his rights as a resident and as a citizen; to this end, he is free to voice grievances and recommend changes in policies and services, free of coercion, discrimination, threats or reprisal;
13. Is permitted to retain and use his personal clothing and possessions as space permits unless to do so would infringe upon rights of other residents;
14. Is encouraged to function at his highest mental, emotional, physical and social potential;
15. Is free of physical or mechanical restraint except in the following situations and with appropriate safeguards:
 - a. As necessary for the facility to respond to unmanageable behavior in an emergency situation, which threatens the immediate safety of the resident or others;
 - b. As medically necessary, as authorized in writing by a physician, to provide physical support to a weakened resident;
16. Is free of prescription drugs except where medically necessary, specifically prescribed, and supervised by the attending physician, physician assistant, or nurse practitioner;
17. Is accorded respect for ordinary privacy in every aspect of daily living, including but not limited to the following:
 - a. In the care of his personal needs except as assistance may be needed;
 - b. In any medical examination or health-related consultations the resident may have at the facility;
 - c. In communications, in writing or by telephone;

- d. During visitations with other persons;
 - e. In the resident's room or portion thereof; residents shall be permitted to have guests or other residents in their rooms unless to do so would infringe upon the rights of other residents; staff may not enter a resident's room without making their presence known except in an emergency or in accordance with safety oversight requirements included in regulations of the Board;
 - f. In visits with his spouse; if both are residents of the facility they are permitted but not required to share a room unless otherwise provided in the residents' agreements;
18. Is permitted to meet with and participate in activities of social, religious, and community groups at his discretion unless medically contraindicated as documented by his physician, physician assistant, or nurse practitioner in his medical record; and
19. Is fully informed, as evidenced by the written acknowledgment of the resident or his legal representative, prior to or at the time of admission and during his stay, that he should exercise whatever due diligence he deems necessary with respect to information on any sex offenders registered pursuant to Chapter 9 (§ 9.1-900 et. seq.) of Title 9.1, including how to obtain such information. Upon request, the assisted living facility shall assist the resident, prospective resident, or the legal representative of the resident or prospective resident in accessing this information and provide the resident, prospective resident, or the legal representative of the resident or prospective resident with printed copies of the requested information.
- B. If the resident is unable to fully understand and exercise the rights and responsibilities contained in this section, the facility shall require that a responsible individual, of the resident's choice when possible, designated in writing in the resident's record, be made aware of each item in this section and the decisions that affect the resident or relate to specific items in this section; a resident shall be assumed capable of understanding and exercising these rights unless a physician determines otherwise and documents the reasons for such determination in the resident's record.
- C. The rights and responsibilities of residents shall be printed in at least 12-point type and posted conspicuously in a public place in all assisted living facilities. The facility shall also post the name and telephone number of the regional licensing supervisor of the Department, the Adult Protective Services' toll-free telephone number, as well as the toll-free telephone number for the Virginia Long-Term Care Ombudsman Program, any sub-state ombudsman program serving the area, and the toll-free number of the Virginia Office for Protection and Advocacy.
- D. The facility shall make its policies and procedures for implementing this section available and accessible to residents, relatives, agencies, and the general public.

- E. The provisions of this section shall not be construed to restrict or abridge any right that any resident has under law.
- F. Each facility shall provide appropriate staff training to implement each resident's rights included in this section.
- G. The Board shall adopt regulations as necessary to carry out the full intent of this section.
- H. It shall be the responsibility of the Commissioner to ensure that the provisions of this section are observed and implemented by assisted living facilities as a condition to the issuance, renewal, or continuation of the license required by this article.

(1984, c. 677, § 63.1-182.1; 1989, c. 271; 1990, c. 458; 1992, c. 356; 1993, cc. 957, 993; 1997, c. 801; 2000, c. 177; 2002, cc. 45, 572, 747; 2004, c. 855; 2006, 396; 2007, cc. 120, 163.)

In Case of Questions or Concerns, You May Call:

**Regional Licensing Administrator,
Virginia Department of Social Services:** _____

Telephone Number: _____

**Toll-Free Telephone Number for Adult Protective Services: 1-888-832-3858
(1-888-83ADULT)**

**Toll-Free Telephone Number for Virginia Long-Term Care Ombudsman Program:
1-800-552-3402**

Local/Sub-State Ombudsman Program: _____

Telephone Number: _____

**Toll-Free Telephone Number for the Virginia Office for Protection and Advocacy:
1-800-552-3962**