

**From:** Licensing [mailto:DSS\_LICENSING@LISTSERV.COV.VIRGINIA.GOV] **On Behalf Of** Williams, Edwina (VDSS)  
**Sent:** Tuesday, November 15, 2016 2:46 PM  
**To:** DSS\_Licensing  
**Subject:** Liability Insurance Disclosure Amendments to the Standards for Licensed Assisted Living Facilities

This file is being sent to assisted living facilities from the Virginia Department of Social Services Email Distribution Service.

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The Standards for Licensed Assisted Living Facilities, 22 VAC 40-72, has been amended to include requirements for liability insurance disclosure, effective November 15, 2016. An assisted living facility is not required to maintain liability insurance, but rather to disclose to residents, prospective residents, and any legal representatives, whether or not the facility has at least the minimum required amount of \$500,000 per occurrence and \$500,000 aggregate established by the State Board of Social Services. The amendments to the standards regarding liability insurance disclosure are noted below. Only the parts that refer to liability insurance disclosure and related headings are so noted. The standards on the public website of the Virginia Department of Social Services (VDSS) and the hard copy supply of the standards will be revised as soon as we are able to do so, but the requirements are now in effect. The order of some of the current requirements has been changed, so the numbering will then be adjusted.

There are two mandated forms that include information related to liability insurance disclosure, i.e., the disclosure statement form (see 22 VAC 40-72-60) and the liability insurance disclosure notification form (see 22 VAC 40-72-390). Both the updated disclosure statement form and the liability insurance disclosure notification form are on the VDSS public website and may be found at <http://www.dss.virginia.gov/facility/alf.cgi>, under Current ALF Providers. Both forms are available in PDF and Word versions. Regarding the liability insurance disclosure notification form, you may attach it to the resident agreement with a reference in the agreement that it is attached or you may incorporate the form right into the resident agreement. This is the case whether you use the VDSS model form or your own form.

**22 VAC 40-72-57. Minimum amount for liability insurance disclosure.**

A. The minimum amount of liability insurance coverage to be maintained by an assisted living facility for purposes of disclosure in the statement required by 22 VAC 40-72-60 and the resident agreement required by 22 VAC 40-72-390 is as follows:

1. \$500,000 per occurrence to compensate residents or other individuals for injuries and losses from the negligent acts of the facility; and
2. \$500,000 aggregate to compensate residents or other individuals for injuries and losses from the negligent acts of the facility.

B. No facility shall state that liability insurance is in place unless the insurance provides the minimum amount of coverage established in subsection A of this section.

**22 VAC 40-72-60. Disclosure.**

A. The assisted living facility shall prepare and provide a statement to the prospective resident and his legal representative, if any, that discloses information about the facility. The statement shall be on a form developed by the department and shall:

4. Disclose the following information, which shall be kept current:

q. Whether or not the facility maintains liability insurance that provides at least the minimum amount of coverage established by the board for disclosure purposes set forth in 22 VAC 40-72-57 to compensate residents or other individuals for injuries and losses from negligent acts of the facility. The facility shall state in the disclosure statement the minimum amount of coverage established by the board in 22 VAC 40-72-57;

**22 VAC 40-72-390. Resident agreement with facility.**

A. At or prior to the time of admission, there shall be a written agreement/acknowledgment of notification dated and signed by the resident/applicant for admission or the appropriate legal representative, and by the licensee or administrator. This document shall include the following:

6. Acknowledgment that the resident has been notified in writing whether or not the facility maintains liability insurance that provides at least the minimum amount of coverage established by the board for disclosure purposes set forth in 22 VAC 40-72-57 to compensate residents or other individuals for injuries and losses from negligent acts of the facility. The facility shall state in the notification the minimum amount of coverage established by the board in 22 VAC 40-72-57. The written notification must be on a form developed by the department.

C. The original agreement shall be updated whenever there are changes in financial arrangements, accommodations, services, care provided by the facility, requirements governing the resident's conduct, or liability insurance disclosure notification, and signed by the licensee or administrator and the resident or his legal representative. If the original agreement provides for specific changes in any of these items, this standard does not apply to those changes.

If you have any questions about the information in this email, please consult with your licensing inspector. Thank you.