

From: **Edwina Williams** <edwina.williams@dss.virginia.gov>
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Subject: ALF Exempt Action Memo
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The attached memo summarizes regulatory changes made to comply with Code changes that were passed by the 2019 General Assembly session. Please contact your Licensing Inspector if you have any questions.

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COMMONWEALTH of VIRGINIA

DEPARTMENT OF SOCIAL SERVICES

DATE: 10/17/19

TO: Licensed Assisted Living Facilities

FROM: Tara Ragland, Director
Division of Licensing Programs

SUBJECT: Revisions to *Standards for Licensed Assisted Living Facilities*

The regulations *Standards for Licensed Assisted Living Facilities* have been revised, effective October 17, 2019, to correspond with changes made to the Code of Virginia by the 2019 Session of the General Assembly. Please refer to the Legislative Implementation memo dated June 12, 2019 for additional information on the legislative changes. The amended regulation was published as a final regulation in the Virginia Register of Regulations on September 16, 2019 (Volume 36, Issue 2). These actions were exempt from the full Administrative Process Act because their purpose was strictly to conform to changes in state law and no agency discretion was involved.

The updated regulation and replacement pages can be found under the Regulations and Code References tab at

<https://www.dss.virginia.gov/facility/alf.cgi> and can be ordered at https://www.dss.virginia.gov/files/division/licensing/alf/intro_page/current_providers/forms/032-05-0512-14-eng.pdf Please replace the old pages with the new and discard prior versions.

The changes to *Standards for Licensed Assisted Living Facilities* are summarized below.

22VAC40-73-50. Disclosure.

- Assisted living facilities (ALF) are required to disclose in writing to each prospective resident, or his legal representative, whether the facility has an on-site emergency electrical power source for the provision of electricity during an interruption of the normal electric power supply.
- If the ALF has an on-site emergency electrical power source, the statement must include the items the electrical power source will supply power to, and whether staff have been trained to maintain and operate the on-site emergency electrical power source to ensure the provision of electricity during an interruption.

- The regulation applies to both permanent and portable emergency electrical power sources where the portable emergency electrical power source remains on the ALF premises at all times.

22VAC40-73-150. Administrator provisions and responsibilities.

- The regulation requires that a licensed assisted living facility (ALF) immediately notify the Board of Long-Term Care Administrator and the Department of Social Services regional licensing office when an administrator dies, resigns, is discharged, or becomes unable to perform his duties.
- Increases from one to two the number of times a licensed assisted living facility may operate under the supervision of an acting administrator during any two-year period.

22VAC40-73-950. Emergency preparedness and response plan.

By December 1, 2020:

- An ALF equipped with an on-site emergency generator shall include a description of the emergency generator's capacity to provide sufficient power for certain functions in its emergency preparedness and response plan.
- An ALF not equipped with an on-site emergency generator must enter into an agreement with a vendor capable of providing an emergency generator, enter into at least one agreement with a backup vendor.

22VAC40-73-980. Emergency equipment and supplies.

By December 1, 2020:

- Facilities equipped with an onsite emergency generator are required to test the generator monthly and maintain records of the tests.
- Facilities not equipped with an onsite emergency generator are required to have a temporary emergency electrical power source connection, which is tested at the time of installation and every two years thereafter by a contracted vender. The facility is required to maintain records of the tests.

22VAC40-73-1130. Staffing.

- Night hour staffing ratios in each special care unit require the following number of direct care staff members be awake and on duty at all times, and be responsible for the care and supervision of residents:
 1. When 22 or fewer residents are present, at least two direct care staff members;
 2. When 23 to 32 residents are present, at least three direct care staff members;
 3. When 33 to 40 residents are present, at least four direct care staff members; and

4. When more than 40 residents are present, at least four direct care staff members plus at least one additional direct care staff member for every 10 residents or portion thereof.

If you have any questions, please contact your licensing inspector.