

**DEPARTMENT OF HEALTH**

**ASSISTED LIVING RESIDENCE REGULATIONS**

Note to the reader: The Notice of Final Rulemaking for the regulations below was published in the D.C. Register on April 3, 2020 at 67 DCR 3717. The Department of Health is aware that regulations governing the practice of assisted living administrators and the licensure of said practice have not been published as final or taken effect as of April 3, 2020. Consequently, the Department will not enforce the portions of this rulemaking that require an individual to be licensed by the District of Columbia Board of Long-Term Care Administration or otherwise authorized to practice assisted living administration in the District until rules have been published, and take effect, to govern said licensure and authorization.

**TITLE 22-B DCMR (PUBLIC HEALTH AND MEDICINE)**

**CHAPTER 101 ASSISTED LIVING RESIDENCES**

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**10100      GENERAL PROVISIONS**

- 10100.1      These rules are implemented pursuant to and in accordance with the Assisted Living Residence Regulatory Act of 2000, effective June 24, 2000 (D.C. Law 13-127; D.C. Official Code §§ 44-101.01 *et seq.* (2012 Repl.), as amended from time to time (hereinafter, the Act).
- 10100.2      The provisions set forth in this chapter have been issued to supplement provisions of the Act. Accordingly, each assisted living residence (“ALR”) licensed pursuant to the Act must comply with the Act and with this chapter, which together constitute standards for licensing and operation of ALRs within the District of Columbia.
- 10100.3      Nothing in this chapter shall be construed to violate the provisions of the Act or the residents’ rights provided therein.
- 10100.4      Nothing in this chapter shall be construed to authorize conduct that is in violation of any other District or federal law or rules issued thereto, including, where applicable, the D.C. Human Rights Act of 1977 (D.C. Law 2-38; D.C. Official Code §§ 2-1401.01 *et seq.* (2016 Repl.)), the Americans With Disabilities Act of 1990 (42 USC §§ 12101 *et seq.*), the Fair Housing Act (42 USC §§ 3601 *et seq.*); and the Health Insurance Portability and Accountability Act of 1996 (42 USC §§ 1320d *et seq.*).
- 10100.5      An ALR that participates in the Medicaid Home Community-Based Services Waiver program for the Elderly and Persons with Physical Disabilities, as approved by the Council of the District of Columbia and the Centers for Medicare and Medicaid Services, shall maintain compliance with Chapter 42 (Home and Community-Based Services Waiver for Persons Who Are Elderly and Individuals with Physical Disabilities) of Title 29 of the District of Columbia Municipal Regulations (DCMR) in addition to the Act and this chapter.

**10101      PURPOSE**

- 10101.1      The purpose of this chapter is to supplement provisions of the Act, which sets minimum, reasonable standards for licensure of ALRs in the District of Columbia. This chapter is intended to promote the principles of the Act, and establish

additional minimum standards as necessary to protect assisted living residents' health, safety, and welfare.

**10102 AUTHORITY TO OPERATE AN ASSISTED LIVING RESIDENCE (ALR) IN THE DISTRICT OF COLUMBIA**

10102.1 A separate license shall be required to operate each ALR, regardless of whether multiple ALRs are operated by the same person, or whether the ALR is on premises shared with another ALR or facility. Each ALR license shall be specific to the location of the ALR.

10102.2 The provision of housing under a landlord-tenant arrangement does not, in and of itself, exclude a person from the requirements to be licensed and in compliance with the provisions of the Act and this chapter.

10102.3 An ALR shall post its license to operate on its premises in a manner conspicuous to residents and visitors.

10102.4 A Licensee shall be responsible for the health, safety, and welfare of the ALR's residents.

10102.5 A Licensee shall be responsible for the operation of the ALR, including personnel and the ALR's compliance with the Act, this chapter, or any other applicable District or federal laws or regulations.

10102.6 An ALR's failure to comply with the Act, this chapter, or any other applicable District or federal laws or regulations may be grounds for sanctions or penalties, including suspension or revocation of licensure, as specified in the Act and in § 10126 of this chapter.

**10103 RESTRICTIONS**

10103.1 An ALR shall not provide services beyond the scope of its license.

10103.2 An entity may not use the term "assisted living" to advertise its services unless the entity is licensed under the Act to operate as an ALR.

10103.3 A person may not advertise, represent, or imply to the public that an ALR is authorized to provide a service that the service provider is not licensed, certified, or otherwise authorized to provide.

10103.4 A person may not advertise the facilities or services provided by the ALR in a manner that is false, misleading, or fraudulent. Facilities or services that are provided at an additional cost to an ALR resident shall be identified in a manner that indicates such.

10103.5 The Director shall issue each license only for the premises and person or persons named as applicants in the application. The license shall not be valid for use by any other person or persons or at any place other than that designated on the license. Any transfer as to person or place shall cause the immediate forfeiture of the license.

10103.6 Each license to operate an ALR that is in the Licensee's possession shall be the property of the District Government and shall be returned to the Director immediately upon any of the following events:

- (a) Suspension, or revocation of the license;
- (b) Denial of an application to renew the license;
- (c) Forfeiture consistent with § 10103.5; or
- (d) The ALR's operation is discontinued by voluntary action of the Licensee.

#### **10104 QUALIFICATION AND ELIGIBILITY**

10104.1 The Director may conduct background checks on an applicant for licensure or for renewal of licensure in order to determine the applicant's suitability or capability to operate or to continue operating an ALR. If applicant is a partnership or non-corporation business entity, the background checks may be conducted on the owners. If applicant is a corporation, the background checks may be conducted on the directors, officers, and any person owning or controlling ten percent (10%) or more of common stock in the corporation.

10104.2 Applicant background checks may consist of, but not be limited to, investigating the following:

- (a) Whether the applicant, or the individual identified on the application to serve as assisted living administrator (ALA) for the ALR, holds a current, valid license to practice assisted living administration in the District of Columbia;
- (b) Applicant's history of compliance with the District of Columbia or any other jurisdiction's licensing requirements and with any federal certification requirements, including any license revocation or denial; and
- (c) The arrest and criminal records of the applicant, including, but not limited to, the following:
  - (1) Crimes or acts involving abuse, neglect or mistreatment of a person or misappropriation of property of the person;

- (2) Crimes or acts related to the manufacture, distribution, prescription, use, or dispensing of a controlled substance;
- (3) Fraud, or substantial or repeated violations of applicable laws and rules in the operation of any health care facility or in the care of dependent persons;
- (4) A conviction or pending criminal charge which substantially relates to the care of adults or minors, to the funds or property of adults or minors, or to the operation of a residential or health care facility; or
- (5) Current investigations by enforcement agencies to include, but not be limited to, the District of Columbia Departments of Health, Health Care Finance, and Consumer and Regulatory Affairs, the Federal Bureau of Investigation, the Office of Inspector General of the United States Department of Health and Human Services, and law enforcement agencies.

## **10105 FEES**

- 10105.1 As provided in § 302(b) of the Act (D.C. Official Code § 44-103.02(b)), each assisted living residence facility seeking an initial license shall pay a base fee of one hundred dollars (\$100.00), plus a fee of six dollars (\$6.00) per resident based on license capacity. These fees shall be paid at the time of the facility's application for the initial license.
- 10105.2 As provided in § 304(d) of the Act (D.C. Official Code § 44-103.04(d)), each assisted living residence facility seeking a renewal of its license shall pay a base fee of one hundred dollars (\$100.00), plus a fee of six dollars (\$6.00) per resident based on license capacity. These fees shall be paid at the time of the facility's application for the renewal license.
- 10105.3 Each assisted living residence facility seeking an initial license or renewal license which fails to submit its application timely, as provided in §§ 302(a) and 304(b) of the Act (D.C. Official Code §§ 44-103.02(a), 44-103.04(b)), shall pay, in addition to the base fee and per-resident fee specified herein, a late fee of one hundred dollars (\$100.00). This fee shall be paid at the time of the facility's application for the license.
- 10105.4 As provided in § 305 of the Act (D.C. Official Code § 44-103.05), each assisted living residence facility seeking a revised license as required due to changes within the facility shall pay the following fees, as applicable, which fees shall be paid at the time of the facility's request for revision of the license:

- (a) For a revision based on changes any of which require re-inspection of the facility, a base fee of one hundred dollars (\$100.00), plus a fee of six dollars (\$6.00) per resident based on license capacity; or
- (b) For a revision based on changes which do not require re-inspection of the facility, a fee of one hundred dollars (\$100.00).

**10106 INITIAL ALR LICENSURE**

10106.1 To obtain and maintain a license, an applicant shall meet all the requirements of the Act and this chapter, and other applicable federal and local laws and regulations.

10106.2 An application for an initial license to operate an ALR shall be made as prescribed by this section and § 302(a)-(e) of the Act (D.C. Official Code §§ 44-103.02(a)-(e)), or as prescribed by § 304 of the Act (D.C. Official Code § 44-103.04) if an application for renewal.

10106.3 The application shall be submitted to the Director for review and shall not be approved for licensure unless determined by the Director to meet the requirements of the Act and this chapter. The Director shall consider the entirety of the application record when determining whether to approve or deny an application, including the results of a background check conducted pursuant to § 10104 of this chapter and any documents required under this section.

10106.4 In addition to the requirements in § 302(d)(2) of the Act (D.C. Official Code § 44-103.02(d)(2)), an application for an ALR license shall include evidence of a current, valid license issued by the District of Columbia to the assisted living administrator (ALA) named in the application.

10106.5 In addition to the information required under § 302(e)(2) of the Act (D.C. Official Code § 44-103.02(e)(2)), an applicant for licensure shall provide the following information:

- (a) The policies and procedures required by §§ 10110.2 and 10110.3 of this chapter;
- (b) A floor plan specifying dimensions of the ALR, exits and planned room usage;
- (c) Proof that the ALR's proposed location has passed an inspection for compliance with fire codes conducted by the District of Columbia Fire & EMS Department's Fire Prevention Division or a successor entity that becomes responsible for conducting such inspections on behalf of the District; and
- (d) Any additional information requested by the Director.

10106.6 The documentation required under § 302(e)(2) of the Act (D.C. Official Code § 44-103.02(e)(2)) and § 10106.05 of this chapter shall be provided to the Director during the pre-licensure inspection period, after on-site inspection of the applicant's ALR has been conducted.

10106.7 An applicant for an ALR license shall pay the licensure fees set forth in § 10105 of this chapter.

## **10107 INSPECTIONS BEFORE AND AFTER LICENSURE**

10107.1 The Director is authorized to conduct inspections:

- (a) At the time of an ALR's application for initial licensure;
- (b) Six (6) months after an ALR's initial licensure;
- (c) At the time of an ALR's application for each annual renewal of licensure;
- (d) To investigate complaints alleging a violation of the Act or this chapter; and
- (e) To ensure an ALR or suspected ALR's compliance with the Act and this chapter, at the discretion of the Director.

10107.2 The inspections set forth in § 10107.1 shall be conducted in accordance with the procedures set forth by § 306 of the Act (D.C. Official Code § 44-103.06) and D.C. Official Code § 44-505, and pursuant to the rules set forth in 22-B DCMR § 3101.

10107.3 In addition to the procedures and rules described in § 10107.2, inspections for the purpose of investigating a complaint alleging a violation of the Act or this chapter shall be guided as follows:

- (a) The Director shall investigate complaint allegations of a life-threatening nature or those that represent immediate danger within twenty-four (24) hours of receipt of the complaint by the Department. All other complaints shall be investigated by the Director no later than thirty (30) days from their receipt or as deemed appropriate.
- (b) The Director shall conduct complaint investigations during time periods and staff shifts consistent with the allegations in the complaint, when deemed appropriate.
- (c) The Director shall communicate the findings of the complaint investigation directly to the ALR or suspected ALR, and the complainant, if the complaint is received directly by the Department. If the complaint is referred by another governmental agency, the Director shall send its findings to the

referring agency. The referring agency shall be responsible for communicating the findings to the complainant.

- 10107.4 An ALR or prospective ALR that seeks to accept the Director's suggested remedy to a deficiency or propose its own remedy, pursuant to § 306(e) of the Act (D.C. Official Code § 44-103.06(e)), shall do so by submitting the remedy to the Director in a written, signed and dated plan of corrective action to abate the cited deficiencies. The ALR shall include the plan of corrective action in its response to the Director that is required by § 306(e) of the Act (D.C. Official Code § 44-103.06(e)).
- 10107.5 The Director, after having conducted an inspection described in paragraphs (b) through (e) of § 10107.1, shall require an ALR it has determined to be in violation of the Act and the rules, but whose deficiencies are not life threatening or seriously endangering to the public's health, safety, and welfare, to correct the deficiencies within thirty (30) days from receipt of the written notice of violations provided by the Director pursuant to § 306(d) of the Act (D.C. Official Code § 44-103.06(d)).
- 10107.6 An ALR shall be subject to the sanctions provided under § 401 of the Act (D.C. Official Code § 44-104.01) if it fails to correct within thirty (30) days the deficiencies indicated in the written notice of violations provided by the Director pursuant to § 306(d) of the Act (D.C. Official Code § 44-103.06(d)) after the conclusion of any inspection conducted under § 10107.1. The Director may extend this time as he or she determines is appropriate under the circumstances.
- 10107.7 The Director shall, after having conducted any inspection under § 10107.1, deny, suspend, or revoke an ALR's licensure pursuant to § 10126 of this chapter if the ALR is found to have life threatening deficiencies or deficiencies which seriously endanger the public's health and safety, but which do not pose an immediate threat to warrant an emergency suspension described by § 404 of the Act (D.C. Official Code § 44-104.04).

## **10108 ADMISSIONS**

- 10108.1 No ALR may have more residents, including respite care residents, than the maximum bed capacity on its license.
- 10108.2 An ALR shall deny admission to an individual if the individualized service plan (ISP) that is developed prior to the individual's admission, pursuant to section 604(a)(1) of the Act (D.C. Official Code § 44-106.04(a)(1)), does not indicate that the individual requires at least the minimal level of assistance with activities of daily living or instrumental activities of daily living provided by the ALR.
- 10108.3 For the purpose of § 601(d)(1) of the Act, physical or mental abuse of others or destruction of property shall be considered behavior that significantly and negatively impacts the lives of others. An ALR shall not admit an individual who



at the time of initial admission, and as established by the initial assessment, exhibits such behavior where the ALR would be unable to eliminate it through the use of appropriate treatment modalities.

10108.4 An ALR shall consider the availability of mental health treatments offered by the District's network of core service agencies and the Department of Behavioral Health prior to determining whether it can provide, or arrange for a third party service to provide, appropriate services for an individual requiring mental health treatment.

## **10109 RESIDENT'S RIGHTS AND QUALITY OF LIFE**

10109.1 The ALR shall promote and facilitate resident self-determination through support of resident choice and all the rights specified in the Act and this chapter.

10109.2 The ALR shall support the resident (or surrogate) in exercising the resident's rights under this chapter without interference, coercion, discrimination, or threat of retaliation.

10109.3 An ALR shall not discriminate against a resident in treatment or access to services based on reasons prohibited by the District of Columbia Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code §§ 2-1401.01 *et seq.* (2016 Repl.)) or any other applicable anti-discrimination law, or rule issued pursuant thereto.

10109.4 An ALR shall honor a duly-executed supported decision-making agreement provided to it by a resident with a disability or a prospective resident with a disability, in accordance with Title III of the Disability Services Reform Amendment Act of 2018 (D.C. Law 22-93; D.C. Official Code §§ 7-2131.01 *et seq.* (2018 Repl.)). An ALR that has received a supported decision-making agreement from a resident shall be advised that all notices required to be sent to that resident under the Act or this chapter must also be sent to the resident's supported decision maker as designated in the resident's supported decision-making agreement, pursuant to § 303(c) of Title III of the Disability Services Reform Amendment Act of 2018 (D.C. Official Code § 7-2133(c)). For the purpose of this subsection, "supported decision-making agreement" and "disability" shall have the meanings prescribed to them by Title III of the Disability Services Reform Amendment Act of 2018 (D.C. Official Code §§ 7-2131.01 *et seq.*).

10109.5 An ALR shall allow notices of upcoming resident group meetings to be posted prominently and conspicuously in designated areas. The ALR shall also include the date, time, and location of upcoming resident group meetings in the calendars or schedules of activities that are published by the ALR for residents on a regular basis, provided that the resident group submits the pertinent information to the ALR prior to the date of the calendar or schedule's publication.

- 10109.6 By the rights granted under § 505(a)(7) of the Act (D.C. Official Code § 44-105.05(a)(7)):
- (a) A resident shall have the right to organize and participate in resident groups in the ALR;
  - (b) A resident shall have the right to invite staff or visitors, including family members and other individuals interested in the resident’s wellbeing, to resident group meetings in the ALR;
  - (c) The ALR shall provide meeting space of appropriate size and with appropriate seating to accommodate the resident group meeting’s attendees; and
  - (d) The ALR shall designate an employee or employees who shall assist with resident group meetings, and through whom the resident group may submit its written requests to the ALR and shall receive the ALR’s response to those requests.
- 10109.7 An ALR shall consider the written requests and grievances submitted by a resident or resident group and respond within fifteen (15) days, in writing, indicating its intended action or inaction in response to the issues of resident care and life in the ALR raised by the resident or resident group. The ALR shall act promptly to complete the actions indicated in its response within a reasonable amount of time. This subsection shall not be construed to imply that the ALR must implement the requests of a resident or resident group in the exact manner recommended by that resident or resident group.
- 10109.8 An ALR shall maintain complete written records of the filing and disposition of all requests, grievances, and appeals.
- 10109.9 An ALR shall permit a resident group meeting to have in attendance family members, visitors, and other guests invited by the resident group’s members. ALR staff may attend a resident group meeting only at a resident group member’s invitation. This subsection shall not prevent a resident’s surrogate from attending a resident group meeting with, or instead of, the resident he or she represents.
- 10109.10 For the purpose of § 506(a)(1) of the Act (D.C. Official Code § 44-105.06(a)(1)) “the ALA and healthcare records” to which a resident shall have access on demand shall mean the aggregate of the following records maintained by the ALR with respect to a particular resident:
- (a) Signed resident agreements written pursuant to § 602 of the Act (D.C. Official Code § 44-106.02), including the financial provisions required by § 603 of the Act (D.C. Official Code § 44-106.03);

- (b) Healthcare records, including healthcare notes and progress reports written by ALR staff, the record of prescription medication stored by the ALR pursuant to § 904 of the Act (D.C. Official Code § 44-109.04) to administer to the resident, and the record of prescription and non-prescription medication and dietary supplements stored by a resident in his or her living unit pursuant to § 10123.3 of this chapter;
- (c) Individualized service plans (ISPs), including all SRAs pertaining thereto;
- (d) Medication administration records, including records of drug errors and adverse drug reactions; and
- (e) Medication and treatment orders.

10109.11 A resident (or surrogate, to the extent that disclosure of the resident’s health information of is not prohibited by applicable laws) shall be entitled to access, on demand, the following documents from the ALR, and to obtain a copy at a fee not to exceed that which is reasonable to cover the cost of its reproduction:

- (a) The resident’s ALA and healthcare records, as described in § 10109.10;
- (b) The resident’s financial records pertaining to the funds and personal property deposited or managed by an ALR for the benefit of the resident described in § 603(a)(2) of the Act (D.C. Official Code § 44-106.03(a)(2)); and
- (c) The results of investigations conducted by the ALR that were prompted by the resident’s submission of a complaint.

10109.12 An ALR shall provide a space with adequate privacy for a resident (or surrogate) to review the document or documents he or she requested to access pursuant to § 10109.11. The space shall have the means to view the document in the format in which the ALR presented it. This subsection is not intended to accommodate copies of documents made at a resident’s request pursuant to § 10109.11.

10109.13 An ALR shall not name a group, council, meeting, or other gathering of individuals a “resident group,” “resident council,” “family group,” “family council,” or combination thereof if the ALR conducts or otherwise controls that gathering beyond providing its resident’s the support and services specified in the Act and this chapter.

10109.14 A copy of all signed agreements between an ALR and a resident (or surrogate), and all notifications required under the Act or this chapter, shall be retained in the resident’s record. An ALR shall provide its residents (or surrogates) with a copy of signed documents within three (3) business days of signing the document.

10109.15 An ALR shall maintain each resident's record for no less than three (3) years after transfer, discharge, or death.

**10110 REQUIRED POLICIES AND PROCEDURES**

10110.1 An ALR shall develop and implement dated, written policies and procedures concerning its operation which shall be consistent with the Act, this chapter, and all other applicable District or federal law.

10110.2 Policies developed and implemented pursuant to § 10110.01 shall include, but not be limited to the following, which shall meet the approval of the Director:

- (a) Medication management, administration of medication, medication administration errors, and medication storage;
- (b) Developing, reviewing, and revising a resident's ISP, including policies on addressing a resident's (or surrogate's) disagreement with an ISP in part or whole and using a shared responsibility agreement (SRA) to resolve remaining discrepancies between the individual resident's right to independence and the ALR's concerns for the safety and wellbeing of the resident and others;
- (c) Private duty nurses, aides, and other healthcare professionals;
- (d) Companions;
- (e) Admission, transfer, and discharge, including guidelines on accommodating a resident's needs prior to an admission, transfer, or discharge;
- (f) Complaints and grievances, including policies for use of the mechanism through which a resident may have complaints and grievances addressed, and for review of submitted complaints and grievances;
- (g) Protecting residents from the threat of retaliation for expressing complaints and grievances;
- (h) Preventing, investigating, reporting, and remediating abuse, neglect, and exploitation of residents;
- (i) Criteria to determine the care needs required by each resident upon initial assessment and throughout the duration of the resident's stay, including how staffing, emergency triage, and fees assessed to residents are impacted by the level of care needs assigned to a resident;
- (j) Alcohol, tobacco, and marijuana use;

- (k) Infection control, sanitation, and universal precautions;
- (l) Emergency preparedness, which shall meet the same standards for emergency preparedness as those set for long term care facilities by the Centers for Medicare and Medicaid Services, at 42 CFR § 483.73;
- (m) Use of audio-visual monitoring systems to monitor the non-private areas of the ALR's internal and external premises, including length of retention and the destruction of recordings;
- (n) Resident's right to visitation, and visitor conduct;
- (o) Monitoring of independent contractors performing work on the ALR's premises on behalf of the ALR or resident;
- (p) Availability of the ALA to the ALR staff;
- (q) Contacting the ALR's registered nurse;
- (r) Determining when an ambulance or emergency medical services are contacted during a health emergency;
- (s) Resident falls; and
- (t) Notification system to inform residents in the event of emergencies such as utility outages, environmental hazards, and other events that pose a substantial threat to the safety of the general ALR community.

10110.3 Procedures developed and implemented in connection with the policies in § 10110.2 shall meet the approval of the Director.

10110.4 An ALR shall train its staff in the proper implementation of its procedures.

10110.5 A resident shall be permitted to view a copy of any policy required under § 10110.2 at his or her request.

10110.6 A resident shall be permitted, at his or her request, to view a copy of the ALR procedures developed in connection with the policies identified in paragraphs (b) and (f) of § 10110.2.

**10111 DISCLOSURE**

10111.1 An ALR shall not provide any billable service or item that will be at a cost additional to the resident's existing balance for the billing cycle unless the ALR has first:

- (a) Provided the resident (or surrogate) with:
  - (1) Oral and written notice of all fees, rates, and charges he or she will incur for the provision of the service or item; and
  - (2) The dollar amount, frequency, and number of recurring charges that will occur for the provision of that service or item; and
- (b) Obtained the resident's (or surrogate's) signature acknowledging receipt of the advance disclosures required by paragraph (a) of this subsection.

10111.2 An ALR shall keep a copy of the written notice and signed acknowledgment required by this subsection in the resident's record.

10111.3 An ALR shall be excused from the requirements of § 10111.01 if emergency circumstances necessitate the immediate provision of an item or service that would otherwise have required advance disclosure of the fees, rates, and charges. An ALR shall provide the disclosures described in § 10111.01(a) and obtain the signature confirmation described in § 10111.01(b) upon concluding its assessment of the resident following the emergency.

10111.4 If an ALR is unable to obtain a resident's (or surrogate's) signed acknowledgement required by § 10111.1 after diligent efforts, the ALR may make note of its inability to obtain the signature on the signature line, which shall include a brief description of the method and number of attempts made to obtain the signature, the dates the attempts were made, and the name of the employee who made the attempts.

## **10112 FINANCIAL AGREEMENTS**

10112.1 The complete terms of all financial provisions in a resident's agreement shall be made available for the resident (or surrogate) to review prior to admission.

10112.2 Funds deposited with or managed by an ALR for the benefit of the resident that total more than two hundred dollars (\$200) shall be deposited in an interest-bearing account in the resident's name in a savings institution. Funds deposited or managed by an ALR for the benefit of the resident that total two hundred dollars (\$200) or less may be deposited in an interest-bearing or non-interest-bearing account or secured on-site for the resident's use as petty cash.

10112.3 An ALR shall not commingle residents' funds or personal property with the funds or property of the ALR, the licensee, employees, or any other entity or individual other than another resident. The ALR must maintain a system that assures a complete and separate accounting, according to generally accepted accounting principles, of each resident's funds and personal property entrusted to the ALR on the resident's behalf.

10112.4 The resident's financial records pertaining to the funds and personal property described in § 603(a)(2) of the Act (D.C. Official Code § 44-106.03(a)(2)) shall be made available to the resident (or surrogate) upon request. The ALR shall provide a report of the resident's financial records to the resident (or surrogate) on a quarterly basis.

**10113 INDIVIDUALIZED SERVICE PLANS (ISPs)**

10113.1 An ISP shall be developed for each resident not more than thirty (30) days prior to admission.

10113.2 An ALR shall support the involvement of family and friends selected by the resident to participate in the development, review, and renegotiation of his or her ISP under the Act and this chapter, provided that the involvement of the selected family and friends is conducive to the resident's participation in the ISP development, review, or renegotiation. This subsection shall not apply to a resident's surrogate acting in his or her capacity as the resident's surrogate pursuant to law.

10113.3 An ALR shall ensure that the assessments conducted prior to a resident's admission, pursuant to §§ 802 and 803 of the Act (D.C. Official Code §§ 44-108.02 and 44-108.03), are performed by a registered nurse who is licensed to practice in the District, and any other healthcare professional necessary to perform the assessments as required who shall also be licensed or otherwise authorized to practice in the District.

10113.4 In accordance with § 604 of the Act (D.C. Official Code § 44-106.04), the ISP developed following the completion of the "post move-in" assessment shall be based on the following factors:

- (a) The medical, rehabilitation, and psychosocial assessment of the resident, conducted by or on behalf of the ALR and in accordance with § 802 of the Act (D.C. Official Code § 44-108.02);
- (b) The functional assessment of the resident, conducted by or on behalf of the ALR and in accordance with § 803 of the Act (D.C. Official Code § 44-108.03); and
- (c) The reasonable accommodation of the resident's (or surrogate's) preferences.

10113.5 A "post move-in" assessment required by § 604 of the Act (D.C. Official Code § 44-106.04) shall be conducted by or on behalf of the ALR within seventy-two (72) hours of a resident's admission.

10113.6 An ALR shall ensure that the update of a resident's ISP conducted pursuant to § 604(d) of the Act (D.C. Official Code § 44-106.04(d)) shall include the involvement of the following personnel on its behalf:

- (a) A registered nurse licensed to practice in the District of Columbia;
- (b) The ALA or Acting Administrator responsible for the ALR, if the health or safety of the resident is at risk; and
- (c) Any additional healthcare professional licensed in the District whose expertise is necessary for the ALR to perform a full and competent review of the services provided in the ISP prior.

10113.7 At or around the time of an ISP review conducted pursuant to § 604(d) of the Act (D.C. Official Code § 44-106.04(d)), the ALR shall:

- (a) Obtain from the resident (or surrogate) a signed statement confirming that the resident (or surrogate):
  - (1) Was invited to participate in the review of the ISP; and
  - (2) Did or did not participate in the review of the ISP; or,
- (b) If the resident has refused to give signed confirmation regarding the same ISP review on two (2) separate occasions, document in the resident's record the date, time, and method of each attempt to obtain the resident's signed confirmations and the name of the ALR personnel who made each attempt.

10113.8 An ALR shall provide the resident (or surrogate) no less than seven (7) days' notice prior to the review of a resident's ISP conducted pursuant to § 604(d) of the Act (D.C. Official Code § 44-106.04(d)), unless seven days' (7) notice is made impractical due to a significant change in the resident's condition that necessitates review of the resident's ISP at a sooner date. The notice shall:

- (a) Include the date, time, and location at which the ALR proposes to conduct the ISP review, and advise the resident (or surrogate) that he or she may request to reschedule the ISP review to another date or time that is mutually agreeable;
- (b) Include an outline of the topics to be discussed during the ISP review and no less than a summary of the ALR's proposed changes to the ISP, if any, in order to facilitate the resident's (or surrogate's) informed decision-making;
- (c) Encourage the resident (or surrogate) to participate in the ISP review with the involvement of family and friends of the resident's choice in accordance with § 10113.2;



- (d) Be delivered to the resident (or surrogate) in writing; and
- (e) Be followed by no less than one (1) written reminder encouraging the resident (or surrogate) to participate in the review.

10113.9 An ALR shall permit a resident (or surrogate) to reschedule the review of his or her ISP conducted pursuant to § 604(d) of the Act (D.C. Official Code § 44-106.04(d)) to a date and time that is mutually agreeable.

10113.10 If a resident (or surrogate) disagrees with an ISP that is updated pursuant to § 604(d) of the Act (D.C. Official Code § 44-106.04(d)), the ALR shall:

- (a) Attempt to resolve the disagreement according to its written policy and procedure for addressing a resident’s disagreement with his or her updated ISP, which shall be implemented consistent with this subsection and in accordance with all applicable provisions of the Act and this chapter;
- (b) Indicate within the ISP the portions that are in dispute;
- (c) Document the disagreement in the resident’s record;
- (d) Record in the resident’s record the date, time, and summary of each effort by the parties to discuss and resolve the disputed portions of the ISP, including, if applicable, the resident’s (or surrogate’s) uncoerced, written, informed consent to implement the portions of the ISP that are not in dispute, pursuant to §§ 10113.11 and 10113.12; and
- (e) If attempts to resolve the dispute pursuant to paragraph (a) are unsuccessful, attempt to negotiate a shared responsibility agreement (“SRA”) with the resident (or surrogate) according to the ALR’s written policy and procedures, which shall be in accordance with § 605 of the Act (D.C. Official Code § 44-106.05) and § 10114 of this chapter.

10113.11 A resident’s (or surrogate’s) disagreement with an ISP that is updated pursuant to § 604(d) of the Act (D.C. Official Code § 44-106.04(d)) and in accordance with the Act and this chapter shall not, in and of itself, prevent the ALR from attempting to implement the ISP, provided that the individuals charged with implementing the ISP do not administer medications or treatments to the resident’s person without the resident’s (or surrogate’s) consent. This subsection shall not be construed to prevent a resident (or surrogate) from engaging in negotiations to reach a SRA in accordance with § 605 of the Act (D.C. Official Code § 44-106.05) and § 10114 of this chapter, for reasons including, but not limited to, resolving a disagreement with respect to that resident’s ISP, or exercising that resident’s right to refuse participation in a service as provided by § 504(5) of the Act (D.C. Official Code § 44-105.04(5)).

10113.12 Consistent with § 10113.11, an ALR shall be permitted to implement an ISP that has been disputed by the resident (or surrogate) as follows:

- (a) Implementation is limited to the portions of the ISP that are not in dispute, and in accordance with the resident's (or surrogate's) uncoerced, written, informed consent. For the purposes of this paragraph, informed consent requires that, prior to giving consent, the resident (or surrogate) has been provided, in writing, the specific ISP services that will not be implemented at that time, and an opportunity to have the ALR explain the consequences of accepting and forgoing the disputed portions of the ISP;
- (b) Implementation is in accordance with an SRA that has been reached in order to resolve the resident's (or surrogate's) disagreement with the ISP, pursuant to the ALR's written policy and procedures and in accordance with the Act and § 10114 of this chapter; or
- (c) Implementation of a disputed portion of the ISP is necessitated by a health emergency or by the resident's urgent medical needs as explicitly delineated in the signed, written orders of an attending healthcare practitioner or registered nurse.

10113.13 The ALR shall periodically monitor a resident who foregoes an ISP service in order to ascertain whether the resident can continue to forego the service safely.

10113.14 Nothing in this section shall compel an ALR to enter into a SRA that is inconsistent with § 605 of the Act (D.C. Official Code § 44-106.05), § 10114 of this chapter, or other applicable District or federal requirement.

#### **10114 SHARED RESPONSIBILITY AGREEMENTS (SRAs)**

10114.1 Shared responsibility agreements (SRAs) may be developed and entered into between an ALR and a prospective or admitted resident (or surrogate), at any time prior to or subsequent to the resident's admittance to the ALR.

10114.2 An ALR shall not enter into a SRA with a prospective or admitted resident (or surrogate) that:

- (a) Seeks to directly or indirectly waive the ALR's obligations to the resident, in whole or in part, beyond the scope necessary to accommodate the resident's (or surrogate's) reasonable, requested arrangement or course of action;
- (b) Relieves the ALR of its obligation ensure that it makes available for a resident's use all prescription and non-prescription medications and dietary supplements required to be provided to that resident according to his or her

ISP developed or updated pursuant to § 604(d) of the Act (D.C. Official Code § 44-106.04(d)), or applicable law;

- (c) Violates any applicable District or federal criminal law; or
- (d) Violates or will cause the violation of any provision of the Act or this chapter.

10114.3 An SRA shall not have the effect of absolving a party from responsibility for negligent conduct.

10114.4 An ALR may decline to enter into a SRA if satisfaction of the SRA will result in an adverse risk to the health, welfare, or safety of other residents or ALR staff. The ALR shall identify the adverse risks for which it declined to enter the SRA in writing to the resident (or surrogate), and include a copy of that correspondence in the resident's record.

10114.5 Attempts to develop a SRA shall be conducted in good-faith. For purposes of this section, a good-faith attempt to negotiate a SRA shall mean a two-way negotiation between the ALR and the resident (or surrogate), where both parties have equal opportunity to propose and decline terms of the SRA, and suggest reasonable alternatives to accommodate the course of action the resident wishes to pursue.

10114.6 In the event that a good-faith attempt to negotiate a SRA is unsuccessful, the ALR:

- (a) Shall document in the resident record the ALR's consultations with the resident (or surrogate) to dissuade the course of action, including but not limited to:
  - (1) The date and time each consultation was held;
  - (2) The content of the consultations;
  - (3) The alternative courses of action proposed by the resident (or surrogate) and ALR, and why the proposed alternatives were not acceptable to the resident (or surrogate) or ALR;
- (b) Shall notify the resident (or surrogate) that harm to the resident's person or others as a result of the persisted course of action may result in discharge;
- (c) Shall not obstruct the resident from pursuing the course of action sought after, provided that the course of action does not pose a clear and present risk of harm to the health, welfare, or safety of other residents or staff, or otherwise warrant intervention by the ALR in order to maintain an environment that is safe and compliant with the ALR's obligations under the Act and this chapter. This paragraph shall not be construed to authorize

either party to violate the terms of the resident agreement entered into between the ALR and resident pursuant to §§ 602 and 603 of the Act (D.C. Official Code §§ 44-106.02 and 44-106.03) as it pertains to resident conduct, or to prohibit an ALR from enforcing the provisions of its resident agreement in accordance with the Act, this chapter, all applicable law; and

- (d) Shall monitor the resident as necessary to ascertain whether the resident's chosen course of action places the resident or others in danger, or other conduct for which subsequent action by the ALR is necessary to maintain an environment that is safe and compliant with the ALR's obligations under the Act and this chapter.

## **10115 TRANSFER, DISCHARGE, AND RELOCATION**

10115.1 The ALA or Acting Administrator shall determine if the care needs of a resident exceed the resources that can be marshalled by the ALR or third-party services in order to safely support the resident, making transfer to another facility necessary. This determination shall only be made after having consulted with the resident (or surrogate) to identify if the ALR can continue to support the resident safely. An ISP review shall satisfy the requirement for this consultation.

10115.2 Except as provided in § 10115.13, an ALR shall conform to the notices and procedures applicable to involuntary relocation, transfer, or discharge provided by subchapter 3 of Chapter 10 of Title 44 of the District of Columbia Official Code (D.C. Official Code §§ 44-1003.02 – 1003.13), and shall conduct the involuntary relocation, transfer, or discharge in accordance with this chapter and § 608(d)-(f) of the Act (D.C. Official Code § 44-106.08(d)-(f)).

10115.3 Prior to transferring a resident to another facility for reasons other than an emergency described in § 608(b) of the Act (D.C. Official Code § 44-106.08(b)), or prior to a discharge, the ALR shall complete and transmit to the receiving facility or, if no receiving facility has been identified, to the resident (or surrogate) any information related to the resident that is necessary to ensure continuity of care and services, including at a minimum, the:

- (a) Contact information of the healthcare practitioner or practitioners responsible for the primary care of the resident;
- (b) Current medication and treatment orders from the resident's healthcare practitioner or practitioners;
- (c) Dosage and date of each medication last administered to the resident;
- (d) Resident's most recent ISP, which shall include the resident's assessments;
- (e) Resident's name, date of birth, and a personal identifier number, such as a

social security number or health insurance information, for purposes of continuing medical care services;

- (f) Primary medical diagnoses and allergies;
- (g) Name and contact information for the resident's surrogate, if applicable; and
- (h) Resident's Advanced Directive information.

10115.4 An ALR shall not transmit the information prescribed in § 10115.3 to the receiving facility without the prior, written, uncoerced consent of the resident (or surrogate). In the event that consent is withheld, an ALR shall transmit the information prescribed in § 10115.3 directly to the resident (or surrogate) prior to transfer or discharge.

10115.5 Although an ALR shall make every effort to avoid discharge, grounds for involuntary discharge may include the following:

- (a) Failure to pay all fees and costs as specified in the contract;
- (b) Inability of the ALR to meet the care needs of the resident as provided in the ISP, as amended by an SRA when applicable;
- (c) Engaging in sexual harassment, exploitation, or other degrading conduct to the detriment of another residents' dignity, in violation of the victim's rights provided under the Act and this chapter;
- (d) Resident presents a risk of physical self-harm, or harm to one or more other residents or staff, for which no other reasonable means of mitigation are available;
- (e) Discharge is essential to meet the ALR's reasonable administrative needs and no practicable alternative is available;
- (f) The ALR is ceasing to operate;
- (g) The licensed capacity of the ALR is being reduced by the District; or
- (h) The license to operate the ALR is suspended or revoked.

10115.6 A resident's return to an ALR after transfer to, and subsequent discharge from, an acute care facility pursuant to § 608 (c) of the Act (D.C. Official Code § 44-106.08(c)) shall be guided by the following provisions:

- (a) Pursuant to § 608(c) of the Act (D.C. Official Code § 44-106.08(c)), a resident's return to his or her ALR from an acute care facility pursuant to an attending healthcare practitioner's written approval shall be a provisional return pending renegotiation of the resident's ISP and the ALA's determination concerning whether the resident can continue to reside safely at the ALR in accordance with § 10115.1;
- (b) It shall be considered an involuntary discharge for the purposes of the Act and this chapter for an ALR to refuse or obstruct a resident's return to the ALR from an acute care facility pursuant to his or her attending healthcare practitioner's written approval. An involuntary discharge described in this paragraph shall be afforded the same notices, procedures, and provisions applicable to involuntary discharges described in the Act, this chapter, and D.C. Official Code §§ 44-1003.02- 44-1003.13;
- (c) If the attending healthcare practitioner's written approval to return to an ALR indicates that the resident requires additional supports in order to do so safely, those additional supports shall be arranged consistent with the resident agreement's financial provisions for coordinating and contracting services not covered by the resident agreement;
- (d) Except for under the circumstances set forth in D.C. Official Code § 44-1003.02(b)(1) and (2) or the occurrence of a separate event for which a resident may be lawfully discharged under the Act or this chapter, a resident who has returned to the ALR pursuant to an attending healthcare practitioner's written approval shall be permitted to remain in the ALR:
  - (1) Throughout the ISP renegotiation performed under § 608(c) of the Act (D.C. Official Code § 44-106.08(c));
  - (2) Throughout the ALA's determination of whether the resident can continue to safely reside in the ALR in accordance with § 10115.1; and
  - (3) If the ALA determines that the resident must be transferred or discharged because of the ALR's inability to continue supporting the resident safely, throughout the transfer or discharge notice period, and hearing period if applicable, provided by the Act, this chapter, and D.C. Official Code §§ 44-1003.02 and 44-1003.03.

10115.7 As provided for by D.C. Official Code § 44-1003.02(d), the written notice due to a resident prior to an involuntary discharge, transfer, or relocation shall be on a form prescribed by the Director and shall, at a minimum, contain:

- (a) The specific reason(s), stated in detail and not in conclusory language, for the proposed discharge, transfer, or relocation;

(b) The proposed effective date of the discharge, transfer, or relocation;

(c) A statement in not less than twelve (12)-point type that reads:

“You have a right to challenge this facility’s decision to discharge, transfer, or relocate you. If the decision is to discharge you from the facility or to transfer you to another facility and you think you should not have to leave, you or your representative have 7 days from the day you receive this notice to inform the Administrator or a member of the staff that you are requesting a hearing and to complete the enclosed hearing request form and mail it in the preaddressed envelope provided. If you are mailing the hearing request form from the facility, the day you place it in the facility’s outgoing mail or give it to a member of the staff for mailing shall be considered the date of mailing for purposes of the time limit. In all other cases, the postmark date shall be considered the date of mailing. If, instead, the decision is to relocate you within the facility and you think you should not have to move to another room, you or your representative have only 5 days to do the above.

“If you or your representative request a hearing, it will be held no later than 5 days after the request is received in the mail, and, in the absence of emergency or other compelling circumstances, you will not be moved before a hearing decision is rendered. If the decision is against you, in the absence of an emergency or other compelling circumstances you will have at least 5 days to prepare for your move if you are being discharged or transferred to another facility, and at least 3 days to prepare for your move if you are being relocated to another room within the facility.

“To help you in your move, you will be offered counseling services by the staff, assistance by the District government if you are being discharged or transferred from the facility, and, at your request, additional support from the Long-Term Care Ombudsman program. If you have any questions at all, please do not hesitate to call one of the phone numbers listed below for assistance.”;

(d) A hearing request form, together with a postage paid envelope preaddressed to the appropriate District official or agency;

(e) The name, address, and telephone number of the person charged with the responsibility of supervising the discharge, transfer, or relocation;

(f) The names, addresses, and telephone numbers of the Long-Term Care Ombudsman program and local legal services organizations; and

(g) The location to which the resident will be transferred.

10115.8 If the tribunal adjudicating a contested transfer, discharge, or relocation finds that the existence of a ground for transfer, discharge, or relocation, respectively, has

been proven at a hearing requested by the resident pursuant to D.C. Official Code § 44-1003.03, the resident shall not be:

- (a) Discharged or transferred from the facility before the 31<sup>st</sup> calendar day following his or her receipt of the transfer or discharge notice required under the Act and § 10115.7, or the 5<sup>th</sup> calendar day following his or her notification of the hearing decision, whichever is later, unless a condition set forth in D.C. Official Code §§ 44-1003.02(b)(1) and (2) develops in the interim; or
- (b) Relocated within the facility before the 8<sup>th</sup> calendar day following his or her receipt of the relocation notice required under the Act and § 10115.7, or the 3<sup>rd</sup> calendar day following his or her notification of the hearing decision, whichever is later, unless a condition set forth in D.C. Official Code §§ 44-1003.02(b)(1) and (2) develops in the interim.

10115.9 The involuntary transfer or discharge of a resident shall be canceled, and the resident shall be entitled to remain in the ALR, upon remediation of the ground or grounds for transfer or discharge. Remediation may be, when applicable, the payment of all monies owed at any time prior to discharge, or the negotiation of a new ISP, and SRA if applicable, that meets the care needs of the resident prior to transfer or discharge.

10115.10 The ALR shall return all funds and personal property that have been deposited with or managed by the ALR for the benefit of the resident no later than the time of discharge.

10115.11 Within thirty (30) days after the date of the discharge or death of a resident, the ALR shall:

- (a) Provide a final accounting of funds and personal property that have been deposited with or managed by the ALR for the benefit of the resident, which shall be delivered to the resident (or surrogate) in the event of discharge, or to the resident's legal representative in the event of the resident's death; and
- (b) Return any refunds due to the resident (or surrogate) in the event of discharge, or to the resident's legal representative in the event of the resident's death.

10115.12 An ALR may temporarily relocate a resident to another living unit within the ALR on an involuntary basis if:

- (a) Temporary relocation is necessary to protect the resident from an imminent and physical harm present in, or threatening to enter, the living unit;
- (b) The imminent and physical harm is due to a curable condition of the living



unit; and

- (c) The temporary relocation lasts no longer than necessary to cure the threat to physical harm posed by the condition and return the living unit to its habitable condition.

10115.13 An involuntary, temporary relocation that is necessitated by the conditions set forth in § 10115.12 shall conform to the notices and procedures for involuntary relocation provided by subchapter 3 of Chapter 10 of Title 44 of the District of Columbia Official Code (D.C. Official Code §§ 44-1003.02 – 1003.13), except when an exigent threat to the resident’s physical safety demands an abbreviated notice period.

10115.14 An ALR shall document in the resident’s records any relocation, transfer, or discharge of a resident, and the basis for the action taken.

**10116 STAFFING STANDARDS**

10116.1 An ALR shall be supervised by an assisted living administrator (ALA) who shall be responsible for all personnel and services within the ALR, including, but not limited to, resident care and services, personnel, finances, adherence to the ALR’s own policies and procedures, and the ALR’s physical premises.

10116.2 A Licensee may designate a person to serve as ALA to supervise the ALR provided that the designee holds a current, valid license to practice assisted living administration issued by the District of Columbia’s Board of Long-Term Care Administration. The Licensee shall submit the name of the person designated to be ALA to the Director on a form approved by the Director not more than ten (10) days after the designation is made or the designee has begun employment as the ALA, whichever occurs first.

10116.3 In addition to the staffing standards for ALAs set forth by § 701 of the Act (D.C. Official Code § 44-107.01), an ALA shall meet all requirements to practice assisted living administration prescribed by the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1203.02(14) (2016 Repl.)), and all requirements to practice assisted living administration set forth by the Director by rulemaking.

10116.4 At all times one (1) or more residents are on the premises of an ALR, an ALA or Acting Administrator shall also be on the premises. At all times an ALA is not on the premises, an ALA shall:

- (a) Ensure that an Acting Administrator is designated and assumes the responsibilities of the ALA required by the Act and this chapter, and that the Acting Administrator is a staff member who is at least eighteen (18) years of age, meets the staffing standards for an ALA required by § 701 of

the Act (D.C. Official Code § 44-107.01), and is authorized to temporarily practice as an Acting Administrator without an ALA license by rulemaking promulgated by the Director to regulate the practice of assisted living administration; and

- (b) Be available to the ALR staff by telephone, at a minimum, and shall respond to the ALR staff's attempts to contact him or her by telephone within 1 hour of the staff's initial attempt, except as provided for in § 10116.6.

- 10116.5 The Licensee or ALA may, during an ALA's leave of absence, designate a staff member who meets the requirements in paragraph (a) of § 10116.4 to serve as Acting Administrator for the ALR and perform the duties of the ALA for up to six (6) cumulative weeks in a twelve (12) month period. For purposes of this section, a "leave of absence" shall mean an ALA's scheduled or unscheduled absence from his or her supervision of the ALR for more than one (1) work day during which the ALA would normally have been expected to oversee the ALR's day-to-day operations.
- 10116.6 An ALA shall not be subject to § 10116.4(b) during a leave of absence described in § 10116.5.
- 10116.7 An Acting Administrator who is designated pursuant to § 10116.5 shall be held responsible for all duties prescribed to an ALA under the Act and this chapter for the duration of the ALA's leave of absence, or until relieved from duty as the Acting Administrator.
- 10116.8 An Acting Administrator who is designated pursuant to § 10116.5 shall, at all times one (1) or more residents are on the ALR's premises and he or she is not, comply with paragraphs (a) and (b) of § 10116.4.
- 10116.9 An ALR shall not be administrated by any person other than a licensed ALA for more than six (6) cumulative weeks in a twelve (12) month period without prior, written approval by the Director. A request for written authorization under this subsection shall be submitted to the Director in writing, and shall contain all information deemed necessary by the Director to determine the qualifications of the individual or individuals who will be serving as an Acting Administrator beyond the sixth (6<sup>th</sup>) cumulative week of the ALA's leave of absence.
- 10116.10 An ALR shall not permit any person or persons, other than a licensed ALA, to administrate the ALR for more than a total of twelve (12) cumulative weeks in a twelve (12) month period.
- 10116.11 An ALR shall give to the Director prior written notice if an ALA's leave of absence will be for a period longer than three (3) consecutive weeks in duration. The notice shall include the name or names of the staff member or members designated to serve as Acting Administrator during the ALA's leave of absence, as well as the

telephone number by which the Acting Administrators are to be contacted pursuant to § 10116.4(b).

- 10116.12 An ALR shall be responsible for maintaining accurate record of the ALA's leaves of absence from the ALR. Record of the ALA's leaves of absence shall be made available to the Director or the Director's designee upon request during an inspection of an ALR authorized by this chapter or the Act.
- 10116.13 An ALR shall cause no less than one (1) registered nurse to be available to the ALA and the ALR's staff members twenty-four (24) hours a day, seven (7) days a week. For the purpose of this subsection, "available" means the registered nurse is required to:
- (a) Be accessible to the ALA and ALR staff members in-person or by real-time communication methods, such as telephone, text message, or video call; and
  - (b) Respond to the ALA or ALR staff members' attempts to contact him or her within 1 hour; and
  - (c) Be able to present him or herself, in person, to the ALR's premises to respond to a significant change in a resident's health status if the nurse determines, in his or her professional opinion, that the change in health status necessitates his or her presence.
- 10116.14 The contact information for the available registered nurse shall be posted conspicuously for, and shall be easily accessible to, the ALR staff.
- 10116.15 Personnel records maintained by the ALA for each employee pursuant to § 701(d)(11) of the Act (D.C. Official Code § 44-107.01(d)(11)) shall be accurate and current and shall contain documentation including, but not limited to, the following:
- (a) A description of the employment, signed and dated by the employee, that includes the employee's duties and responsibilities, and the qualifications required for the position;
  - (b) Initial date of hire;
  - (c) Proof of license, registration, certificate, or other authority for the employee to practice his or her profession in the District, if applicable;
  - (d) A completed criminal background check, performed as required by the District laws and regulations applicable to each individual;
  - (e) Employee training required by the Act or this chapter, or the individual's exemption therefrom; and

- (f) A healthcare practitioner's written statement as to whether the employee bears any communicable diseases, including communicable tuberculosis.

10116.16 Employee records shall be made available for review by the Department of Health upon request during any inspection of an ALR that is authorized by the Act or this chapter.

10116.17 All employees, including the ALA, shall be required on an annual basis to document freedom from tuberculosis in a communicable form. Documentation shall be provided by the employee's licensed healthcare practitioner.

10116.18 All employees shall wear identification badges on their persons, which shall not be obscured, but shall always remain visible while the employee is on the ALR premises. The identification badge shall prominently and conspicuously display the employee's full name and job title.

10116.19 The first name, last name, and job title of the ALA, or Acting Administrator, on duty shall be posted in a manner conspicuous to residents and visitors.

**10117 ASSISTED LIVING ADMINISTRATORS (ALAs)**

10117.1 The ALA shall maintain a current, valid license to practice assisted living administration in the District at all times he or she is responsible for the administration of an ALR. For purposes of this subsection, an ALA shall not be considered responsible for the administration of an ALR for the period of time he or she is on a leave of absence described in § 10116.5 of this chapter.

10117.2 The ALA shall ensure that the ALR complies with the Act and this chapter.

10117.3 An ALA shall be subject to action by the District of Columbia Board of Long-Term Care Administration for failure to comply with the requirements of this section, or other applicable requirements of the Act or this chapter.

**10118 PRIVATE DUTY HEALTHCARE PROFESSIONALS**

10118.1 Pursuant to § 701(a) of the Act (D.C. Official Code § 44-107.01(a)), the ALA shall be responsible for all personnel and services within the ALR, and shall cause all private duty healthcare professionals that provide healthcare related services on the ALR's premises to comply with the requirements of this section as a condition of providing service on the ALR's premises.

10118.2 An ALR shall require that private duty healthcare professionals arranged by a resident, surrogate, or party other than the ALR to provide healthcare-related services to the resident on the ALR's premises on a recurring basis:

- (a) Be certified, registered, licensed, or otherwise authorized by the District of Columbia to render the healthcare-related service they will provide to the resident;
- (b) Maintain an accurate and current personnel record with the ALR that includes, but is not limited to, the following:
  - (1) A signed and dated description of the services to be rendered to the resident;
  - (2) A copy of the registration, certification, license, or other authorization required for the nurse, aide, or other healthcare professional to lawfully practice the healthcare-related services being rendered in the District of Columbia;
  - (3) Initial date and final date, if known, of providing service to resident on the ALR's premises;
  - (4) A healthcare practitioner's written statement as to whether the nurse, aide, or other healthcare professional bears any communicable diseases, including communicable tuberculosis; and
  - (5) If the nurse, aide, or other healthcare professional is providing care to the resident under the employ of an agency:
    - (A) The name, address, telephone number of the agency;
    - (B) The name and telephone number of the private nurse, aide, or other healthcare professional's immediate supervisor; and
    - (C) A copy of the agency's license or other authorization to operate in the District;
- (c) Administer prescription medication to only the resident for whom the medication was prescribed, or assist in the self-administering of prescription medication for only the resident to whom the medication was prescribed; and
- (d) Be subject to immediate removal from the premises upon determination by the ALA or designee that the nurse, aide, or other healthcare professional has, or is suspected to have, a communicable disease, is mentally or physically incapable of performing his or her duties, or otherwise presents a risk to the health and safety of one (1) or more residents in the ALR.

10118.3

An ALR shall inform a resident (or surrogate) promptly if a private duty healthcare professional he or she has contracted has been removed for the premises under §

10118.2(d). The ALR shall include the reason for the removal and its intended duration, and provide the resident (or surrogate) with an opportunity to appeal its decision in accordance with the ALR's internal grievance procedures required by § 10110.2 of this chapter.

10118.4 An ALR shall have a written agreement with each private duty healthcare professional providing healthcare services on the ALR's premises, or the agency that employs him or her, if applicable, requiring the private duty healthcare professional to report the following events to the ALR and describing the procedure by which such reporting shall occur:

- (a) Medication errors and adverse drug reactions;
- (b) Abuse, neglect, exploitation, or unusual incidents, such as changes in the resident's condition; and
- (c) Any restriction of, suspension, revocation, or failure to renew the healthcare professional's license or other authorization to practice his or her healthcare profession in the District.

10118.5 Pursuant to § 607(a)(1) of the Act (D.C. Official Code § 44-106.07(a)(1)), the ALR shall be responsible for the safety and well-being of its residents, including residents receiving services from private duty healthcare professionals on the ALR's premises.

10118.6 An ALR shall have the duty to ensure that all services and supports identified in a resident's ISP are received by the resident. Services provided by a private duty healthcare professional shall not be presumed to have satisfied the ALR's obligation to ensure that the resident receives all services and supports due, pursuant to his or her ISP. An ALR must provide or arrange for the provision of any service or support identified in a resident's ISP that is left unsatisfied by the resident's private duty healthcare professional.

10118.7 Nothing in this section authorizes a private duty healthcare professional to practice outside the scope of their authority to practice their profession in the District.

10118.8 The requirements for a private duty nurse, aide, or other healthcare professional under this section shall not apply to companions of a resident.

## **10119 COMPANIONS**

10119.1 Pursuant to § 701(a) of the Act (D.C. Official Code § 44-107.01(a)), the ALA shall be responsible for all personnel and services within the ALR, and shall cause all companions that provide companion services on the ALR's premises to comply with the requirements of this section as a condition of providing service on the ALR's premises.

- 10119.2 A companion shall not be permitted to provide any healthcare services to a resident or perform any services that constitute hands-on care of the resident.
- 10119.3 A companion may provide companion services, including but not limited to cooking, housekeeping, errands, and providing social interaction with a resident. The ALR shall obtain a written description of the type and frequency of services to be delivered to the resident, review the information to determine if the services are acceptable based on the resident's care needs, and notify the companion if the services to be provided are unacceptable.
- 10119.4 An ALR shall require that, prior to performing companion services for a resident, any companion with direct resident access must provide to the ALR:
- (a) A completed criminal background check for unlicensed professionals performed in accordance with D.C. Official Code §§ 44-551 *et seq.* and 22-B DCMR §§ 4700 *et seq.*, which shall be free from conviction of an offense listed in 22-B DCMR § 4705.1, or their equivalents, within seven (7) years prior to the criminal background check unless permitted under § 22-B DCMR § 4705.2;
  - (b) A healthcare practitioner's written statement as to whether the companion bears any communicable diseases, including communicable tuberculosis; and
  - (c) A signed and dated description of the type and frequency of services to be delivered to the resident, approved pursuant to § 10119.3.
- 10119.5 A companion shall be subject to immediate removal from the ALR premises upon determination by the ALA or designee that he or she has, or is suspected to have, a communicable disease presents a risk to the health and safety of the residents, is mentally or physically incapable of performing his or her duties, or otherwise presents a risk to the health and safety of the residents. An ALR shall permit a resident (or surrogate) to appeal the removal of his or her companion in accordance with the ALR's internal grievance procedures required by § 10110.2 of this chapter.
- 10119.6 An ALR shall have a written agreement with each companion providing companion services on the ALR's premises, or the agency that employs him or her, if applicable, requiring the companion to report abuse, neglect, exploitation, or unusual incidents, such as changes in the resident's condition, to the ALR and describing the procedure by which such reporting shall occur.
- 10119.7 Pursuant to § 607(a)(1) of the Act (D.C. Official Code § 44-106.07(a)(1)), the ALR shall be responsible for the safety and well-being of its residents, including residents receiving companion services from companions on the ALR's premises.

**10120 UNLICENSED PERSONNEL CRIMINAL BACKGROUND CHECK**

10120.1 No ALR shall employ or contract an unlicensed person for work on the ALR's premises until a criminal background check has been conducted for that person.

10120.2 An ALR shall implement and comply with the criminal background check standards and requirements for unlicensed personnel prescribed by D.C. Official Code §§ 44-551 *et seq.* and 22-B DCMR §§ 4700 *et seq.*

**10121 PRE-ADMISSION MEDICATION MANAGEMENT ASSESSMENT**

10121.1 In addition to the consultations required by § 902 of the Act (D.C. Official Code § 44-109.02), the ALR shall consult with the prospective resident's healthcare practitioner regarding the prospective resident's ability to self-administer medication within thirty (30) days prior to admission.

**10122 ON-SITE MEDICATION REVIEW**

10122.1 The on-site medication review by a registered nurse that is arranged to occur every forty-five (45) days, pursuant to § 903 of the Act (D.C. Official Code § 44-109.03), shall include documentation of any changes to the resident's medication profile, including changes in dosing and any medications that have been added or discontinued.

**10123 MEDICATION STORAGE**

10123.1 Medication that is entrusted to the ALR for storage shall be stored in accordance with the requirements of § 904 of the Act (D.C. Official Code § 44-109.04) and the following:

- (a) Each medication shall be stored under proper conditions of light and temperature as indicated on its label; and
- (b) Medication requiring refrigeration shall be maintained in a refrigerator that is secured and used exclusively for the storage of medication. The key to the refrigerator shall be kept on the person of the employee on duty who is responsible for administering the medications within.

10123.2 Medication taken from the ALR's storage space for delivery to a resident or elsewhere shall not leave the immediate control of the employee delivering it unless the medication is secured with a locking mechanism or the delivery has been completed. The key to the lock must be kept on the person of the employee who is responsible for delivering the medication for the duration of the delivery.

10123.3 An ALR shall keep a current record of each prescription and non-prescription medication and dietary supplement kept by a resident in his or her living unit



pursuant to § 904(e)(8) of the Act (D.C. Official Code § 44-109.04(e)(8)), which shall be retained in the resident's healthcare record and include:

- (a) Name of the medication;
- (b) Strength of medication and quantity;
- (c) Lot number; and
- (d) If a prescribed medication:
  - (1) Name of prescriber;
  - (2) Name and phone number of the pharmacy that filled the prescription;
  - (3) Date the prescription was filled; and
  - (4) The frequency and directions for use provided by the prescriber.

10123.4 In the event of voluntary or involuntary discharge, the ALR shall notify and attempt to return all medications to the resident (or surrogate) or a caregiver at the time of discharge, unless return of the medication is prohibited by federal or other District law. If the resident's medications can't be returned or remains unclaimed for more than thirty (30) days after the resident has been discharged, the medication shall be considered abandoned and destroyed. Witness and documentation of the destruction shall be in accordance with the § 904 of the Act (D.C. Official Code § 44-109.04) and applicable District law.

## **10124 MEDICATION ADMINISTRATION**

10124.1 A resident shall be permitted to self-administer his or her medications, provided that the resident has been determined capable of self-administering his or her own medication as defined in paragraphs (a) or (b) of § 10124.2 by the most recent on-site medication review required under the Act or, if he or she is a new resident, by the initial assessment conducted during the ALR's admission process.

10124.2 The initial assessment and periodic medication review performed pursuant to §§ 901 and 903 of the Act (D.C. Official Code §§ 44-109.01 and 44-109.03) for the purpose of determining whether a resident is capable of self-administering medication shall make one the following findings based on an assessment of the associated tasks below:

- (a) A resident is capable of self-administering his or her own medication, provided that the resident can:

- (1) Correctly read the label on the medication's container;
  - (2) Correctly interpret the label;
  - (3) Correctly follow instructions as to route, dosage, and frequency of administration;
  - (4) Correctly ingest, inject, or otherwise apply the medication;
  - (5) Correctly measure or prepare the medication, including mixing, shaking, and filling syringes;
  - (6) Safely store the medication;
  - (7) Correctly follow instructions as to the time the medication must be administered; and
  - (8) Open the medication container, remove the medication from the container, and close the container;
- (b) A resident is capable of self-administering his or her own medication, but requires a reminder to take medications or requires physical assistance with opening and removing medications from the container, or both, provided that the resident can:
- (1) Correctly read the label on the medication's container;
  - (2) Correctly interpret the label;
  - (3) Correctly follow instructions as to route, dosage, and frequency of administration;
  - (4) Correctly ingest, inject, or otherwise apply the medication;
  - (5) Correctly measure or prepare the medication, including mixing, shaking, and filling syringes; and
  - (6) Safely store the medication; or
- (c) A resident is not capable of self-administering his or her own medication, provided that the resident needs the assistance of another person to properly carry out one or more of the tasks enumerated in paragraph (b) of this subsection.

10124.3

A resident who has been determined not capable of self-administering medication pursuant to paragraph (c) of § 10124.2, or has elected not to self-administer his or

her own medications, or his or her surrogate, may arrange with a third-party for a licensed practical nurse, registered nurse, advanced practice registered nurse, physician, physician assistant, or certified medication aide to administer medication to the resident or assist the resident with taking his or her medications to the extent of the healthcare professional's authority to do so under District and federal laws or regulations. A healthcare professional arranged to administer or assist in the self-administering of medication to a resident in accordance with this subsection shall be required to conform to the requirements of private duty healthcare professionals provided in § 10118 of this chapter.

10124.4 A resident who has been determined to be capable of self-administering his or her own medication but requires a reminder or physical assistance as defined in paragraph (b) of § 10124.02, shall be permitted to utilize a device or a third-party other than those who are listed in § 10124.3 in order to be reminded to take a medication, to open a medication container, or to remove a medication from its container, only. Under no circumstance shall this subsection be construed to authorize a person, other than a healthcare professional employed as described in § 10124.3, to assist a resident with an activity related to the administration of medication other than reminding that resident to take a medication, opening a medication container at the explicit direction of that resident, or removing a medication from its container at the explicit direction of that resident; nor shall any activity other than reminding a resident to take a medication, opening a medication container at the explicit direction of the resident, or removing a medication from its container at the explicit direction of the resident be construed as permissible for the purpose of this subsection. Activities that are not authorized by this subsection include, but are not limited to, the following: administering a medication, preparing a medication for administration or self-administration, advising or assisting in the administration of a medication, sorting medications, relabeling a medication, transferring medications from one container to another, removing a medication from its container for a purpose other than for the resident to self-administer independently promptly thereafter, or any other activity not expressly authorized by this subsection.

10124.5 An ALR shall provide or arrange for a licensed practical nurse, registered nurse, advanced practice registered nurse, physician, physician assistant, trained medication employee ("TME"), or certified medication aide to administer, or assist in the self-administering of, medication to a resident, provided that:

- (a) The resident has been determined not capable of self-administering medication pursuant to paragraph (c) of § 10124.2 or has elected not to self-administer his or her own medications, and he or she has not arranged with a third-party to administer, or assist in the self-administering of, his or her medication in accordance with § 10124.3;
- (b) The healthcare professional holds the requisite certificate, registration, or license to practice issued by the District;

- (c) The healthcare professional does not exceed his or her authority to administer or assist in the administration of medication to the resident under District and federal laws or regulations;
- (d) The ALR discloses, orally and in writing, any fees, rates, or charges associated with providing assistance with or the administration of a medication that are additional to the resident's existing bill, in accordance with § 10111 of this chapter;
- (e) Prior to the provision of the medication administration or assistance, the resident (or surrogate) provides in writing:
  - (1) Acceptance of the medication administration or assistance offered by the ALR; and
  - (2) Acknowledgment of receiving the ALR's medication administration policy and the disclosure of fees required in paragraph (c) of this subsection; and
- (f) The ALR has in place education, remediation, and discipline procedures by which to address recurring medication errors perpetrated by the licensed practical nurse, registered nurse, advanced practice registered nurse, physician, physician assistant, TME, or certified medication aide.

10124.6 An ALR shall require that administration or assistance in the administration of medication to a resident by a healthcare professional pursuant to §§ 10124.3 and 10124.5 be in accordance with the prevailing standard of acceptable medication administration rights in the healthcare professional's field.

10124.7 An ALR shall ensure that all medication administered to a resident by licensed practical nurse, registered nurse, advanced practice registered nurse, physician, physician assistant, TME, or certified medication aide on its premises shall be recorded on a written or electronic medication administration record that is kept as part of the resident's healthcare records.

10124.8 An ALR shall ensure that all employees and all licensed practical nurses, registered nurses, advanced practice registered nurses, physicians, physician assistants, or certified medication aides responsible for administering or assisting in the administration of medication to a resident while on the ALR's premises, immediately report any medication error or adverse drug reactions to the ALR's available registered nurse and ALA upon discovery. The ALR shall require the ALA or Acting Administrator to report the medication error or adverse drug reaction, to the resident's healthcare practitioner, prescriber, pharmacist, and the resident (or surrogate), as appropriate.

10124.9 An ALR shall require all medication errors and adverse drug reactions be documented in the resident's record.

10124.10 An ALR shall initiate an investigation of any reported medication error or adverse drug reaction within twenty-four (24) hours of discovery. Upon the completion of the investigation, the ALR shall compose a report documenting the findings and conclusion of the investigation, which shall be kept as part of the ALR's records for no less than five (5) years. A report required under this subsection shall also be made available to the Director or the Director's designee upon request during an inspection authorized by the Act or this chapter.

10124.11 An ALR shall submit to the Director a copy of any report of an adverse drug reaction required by § 10124.10 within thirty (30) days of the discovery of the adverse drug reaction, in addition to the requirements of § 10124.10 and the notification requirements of § 10125.4(a) of this chapter.

10124.12 Nothing in this section authorizes a healthcare professional to practice outside the scope of their authority to practice their profession in the District.

**10125 REPORTING COMPLAINTS TO THE DIRECTOR; REPORTING ABUSE, NEGLIGENCE, EXPLOITATION, AND UNUSUAL INCIDENTS**

10125.1 Notwithstanding a resident's right to address grievances and complaints to representatives of the Office of the Long-Term Care Ombudsman provided by § 505(a)(5) of the Act (D.C. Official Code § 44-105.05(a)(5)), the Director may receive any complaint alleging violations of the Act and this chapter from any person and may conduct an inspection to determine the validity of the complaint pursuant to § 10107.3 of this chapter.

10125.2 An ALR shall immediately notify the Department of Health, the District's Adult Protective Services program, and the District of Columbia Long-Term Care Ombudsman of all suspected or alleged incidents of abuse, neglect, or exploitation. The Department of Health shall be notified by phone immediately, and the ALR shall follow up by written notification to the Department within twenty-four (24) hours or the next business day.

10125.3 The results of an ALR's investigation into allegations of abuse, neglect, or exploitation of a resident pursuant to § 509(b)(3) of the Act (D.C. Official Code 44-105.09(b)(3)) shall be reported to the Director within thirty (30) days of the complaint or fifteen (15) days of the conclusion of the investigation, whichever occurs first.

10125.4 In addition to the requirements to report abuse, neglect, and exploitation of a resident provided in § 509 of the Act (D.C. Official Code § 44-105.09):

(a) An ALR shall notify the Director of any unusual incident that substantially

affects a resident. Notifications of unusual incidents shall be made by contacting the Department of Health by phone promptly, and shall be followed up by written notification to the same within twenty-four (24) hours or the next business day; and

- (b) An ALR shall notify the Metropolitan Police Department of abuse or any unusual incident involving death or criminal activity at an ALR before notifying the Director pursuant to paragraph (a) of this subsection. Instances of sexual abuse, specifically, shall be directed to the Metropolitan Police Department's Sexual Assault Unit.

10125.5 For purposes of § 10125.4, an "unusual incident" shall mean any occurrence involving a resident or the ALR's physical plant that results in significant harm, or the potential for significant harm, to any resident's health, welfare, or wellbeing. Unusual incidents include, but are not limited to: an accident resulting in significant injury to a resident, unexpected death, a sustained utility outage, environmental hazards, misappropriation of a resident's property or funds, or an occurrence requiring or resulting in intervention from law enforcement or emergency response personnel.

10125.6 An ALR shall keep record of all instances of unusual incidents for no less than three (3) years after the date of occurrence.

10125.7 An ALR shall, upon request, provide an affected resident (or surrogate) with a copy of the results of the ALR's investigation into suspected abuse, neglect, or exploitation of that resident, and any actions taken by the ALR, that are reported to the Department pursuant to § 509(b)(3) of the Act (D.C. Official Code § 44-105.09(b)(3)).

## **10126 DENIAL, RESTRICTION, SUSPENSION, OR REVOCATION OF A LICENSE**

10126.1 The Director may take the following actions with respect to a license issued pursuant to the Act and § 10106 of this chapter:

- (a) Refuse to issue, renew, or restore a license;
- (b) Issue a provisional license pursuant to § 304(e)(2) of the Act (D.C. Official Code § 44-103.04(e)(2));
- (c) Restrict a license for one of the reasons listed in § 401 of the Act (D.C. Official Code § 44-104.01) or § 10127 of this chapter; or
- (d) Suspend or revoke the license of an ALR that:
  - (1) Fails to meet all applicable requirements for renewal, as provided

by § 304(e) of the Act (D.C. Official Code § 44-103.04(e));

- (2) Violates a condition or requirement of an imposed sanction, as provided by § 401(c) of the Act (D.C. Official Code § 44-104.01(c)); or
- (3) Is determined by the Director, after an inspection, to have life threatening deficiencies or deficiencies which seriously endanger the public's health and safety, as provided by § 306(d) of the Act (D.C. Official Code § 44-103.06(d)).

10126.2 Except for an emergency suspension undertaken pursuant to § 404 of the Act (D.C. Official Code § 44-104.14), every applicant for or holder of a license, or applicant for reinstatement after revocation, shall be afforded notice and an opportunity to be heard prior to the action of the Director, if the effect of which would be one of the following:

- (a) To deny an initial license for cause which raised an issue of fact;
- (b) To suspend a license;
- (c) To revoke a license;
- (d) To refuse to restore a license;
- (e) To issue a provisional renewal license; or
- (f) To refuse to issue a renewal license for any cause other than failure to pay the prescribed fees.

10126.3 When the Director contemplates taking any action of the type specified in § 10126.2(a), the Director shall give to the applicant a written notice containing the following statements:

- (a) That the applicant has failed to satisfy the Director as to the applicant's qualifications;
- (b) The respect in which the applicant has failed to satisfy the Director; and
- (c) That the denial shall become final unless the applicant files a request for a hearing with the Director within fifteen (15) days of receipt of the notice.

10126.4 When the Director contemplates taking any action of the type specified in paragraphs (b), (c), (d), (e), and (f) of § 10126.2, the Director shall give the licensee a written notice containing the following statements:

- (a) That the Director has sufficient evidence (setting forth the nature of the evidence), which if not rebutted or explained, justifies taking the proposed action; and
- (b) That the Director shall take the proposed action unless within fifteen (15) days of the receipt of the notice the ALR files with the Director a written request for a hearing or in the alternative submits documentary evidence for the Director's consideration before the Director takes final action.

10126.5 If the ALR does not respond to a notice required under §§ 10126.3 or 10126.4 within the time specified, the Director may, without a hearing, take the action contemplated in the notice. The Director shall inform the applicant or licensee, in writing, of the action taken.

10126.6 If the ALR chooses to submit documentary evidence but does not request a hearing, the Director shall consider the material submitted and take such action as is appropriate without a hearing. The Director shall notify the ALR in writing of the action taken.

10126.7 Service of any notice required by this section shall be in accordance with the rules provided in 22-B DCMR § 3109.

## **10127 SANCTIONS**

10127.1 Failure of a Licensee to comply with the requirements of this chapter shall be grounds for sanctions, which shall be imposed in accordance with the Act and this chapter.

10127.2 On determining that a Licensee has violated this chapter, the Director may impose, or cause to be imposed, the sanctions set forth in § 401 of the Act (D.C. Official Code § 44-104.01).

10127.3 If the Director determines that the Licensee has violated a condition or requirement of a sanction imposed under the authority of this chapter, the Director may suspend or revoke the license.

10127.4 Appeals under this section may be taken pursuant to § 1201 of the Act (D.C. Official Code § 44-1012.01).

## **10128 CIVIL PENALTIES**

10128.1 The Director may impose, or cause to be imposed, one or more of the civil penalties authorized under § 402 of the Act (D.C. Official Code § 44-104.02) against persons who:

- (a) Maintain or operate an unlicensed ALR; or



(b) Otherwise violate provisions of this chapter.

10128.2 Notwithstanding any other provision of law, penalties authorized under § 10128.1 shall not be imposed by the Director unless a violation cited during an inspection:

(a) Is within the control of the ALR; and

(b) Poses an immediate or serious and continuing danger to the health, safety, welfare, or rights of resident.

10128.3 If, during a follow-up inspection, the Director determines that violations of this chapter which are within the control of the ALR and were cited in an immediately prior inspection have not been corrected or have recurred, the Director may impose the penalties authorized under § 402 of the Act (D.C. Official Code § 44-104.02).

10128.4 Appeals under this section may be taken as provided by § 402(d) of the Act (D.C. Official Code § 44-104.02(d)).

## **10129 CRIMINAL PENALTIES**

10129.1 The criminal penalties authorized by § 403 of the Act (D.C. Official Code § 44-104.03) of the Act shall apply to an ALR.

## **10130 REFERRALS TO REGULATORY ENTITIES**

10130.1 The Director may refer an ALA who is alleged to have engaged in conduct prohibited by the Act, this chapter, or other District or federal law or rules issued pursuant thereto, to the District of Columbia Board of Long-Term Care Administration for review of the conduct.

10130.2 The Director may refer any healthcare professional who practices his or her healthcare profession on the premises of an ALR and who is alleged to have engaged in conduct prohibited by the Act, this chapter, or other District of federal law or rules issued pursuant thereto, to the appropriate regulatory entity with jurisdiction over the healthcare professional for review of the conduct.

10130.3 Nothing in this section shall prohibit any person, including the Director, from referring any individual suspected of conduct prohibited by District or federal law or regulation to the appropriate District or federal regulatory entities.

## **10131–10198 [RESERVED]**

## **10199 DEFINITIONS**

10199.1 The definitions of terms provided in the Act (at D.C. Official Code § 44-102.01) shall apply to this chapter, unless provided another definition under § 10199.2.

10199.2 When used in this chapter, the following terms and phrases shall have the meanings ascribed:

**“Act” or “the Act”** – means the Assisted Living Residence Regulatory Act of 2000, effective June 24, 2000, (D.C. Law 13-127; D.C. Official Code §§ 44-101.01 *et seq.*).

**Acting Administrator** – means a member of the ALR staff who is designated by the Licensee or Assisted Living Administrator to assume the responsibilities of the Assisted Living Administrator for a temporary period of time.

**“Administer” or “Administration”** – means, with respect to medication, the direct application of a medication to the body of a person by injection, inhalation, ingestion, or any other means.

**ALA** – means “Assisted Living Administrator,” as defined by the Act (D.C. Official Code § 44-102.01).

**ALR** – means “Assisted Living Residence,” as defined by the Act (D.C. Official Code § 44-102.01).

**Audio-Visual Monitoring** – means the surveillance of the ALR facility, its employees, or its residents by audio, visual, or audio-visual means.

**Certified Medication Aide** – means a person certified to practice as a medication aide by the District of Columbia Board of Nursing, who shall not practice independently, but shall work under the supervision of a registered nurse or licensed practical nurse.

**Companion** – means an individual who is employed, for pay or not-for-pay, to provide companion services to a resident at the discretion of the companion’s client, the companion’s employer, or the resident. For purposes of this chapter, the definition of a companion shall not include the resident’s social guest, unless that social guest is performing companion services on the ALR’s premises at the discretion of anyone other than himself or herself.

**Companion services** – means non-healthcare related services, such as cooking, housekeeping, errands, and social interaction, performed for a resident on the ALR’s premises.

**Department** – means the District of Columbia Department of Health.

**Direct Resident Access** – means access to a resident that involves, or may foreseeably involve, presence in a room occupied by the resident while not under the immediate and contemporaneous supervision of a licensed health care professional employed by the ALR.

**Director** – means the Director of the District of Columbia Department of Health.

**Employee** – means any person who works under the employ of an ALR or a separate entity that is owned or operated or a subsidiary of the ALR; or any person who is contracted through an entity independent of an ALR for the purpose of working under the direction and supervision of the ALR.

**Healthcare Professional** – means the practitioner of a healthcare occupation, the practice of which requires authorization pursuant to the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 *et seq.*), as amended from time to time.

**ISP-** means “Individualized Service Plan,” as defined by the Act (at D.C. Official Code § 44-102.01).

**Medication Error** – means any error in the prescribing, dispensing, or administration of a drug, irrespective of whether such errors lead to adverse consequences or not.

**Private Duty Healthcare Professional** – means a nurse, home health aide, nurse aide, or any other healthcare professional arranged by a resident, surrogate, or party other than the ALR to provide healthcare-related services to the resident on the ALR’s premises.

**SRA** – means “Shared Responsibility Agreement,” as defined by the Act (at D.C. Official Code § 44-102.01).

**“Staff” or “Staff member”** – means “Employee,” as defined by this subsection.

**Unlicensed Person** – means a person who is not licensed pursuant to the Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99, D.C. Official Code §§ 3-1201.01 *et seq.*) and who functions in a complementary or assistance role to licensed health care professionals in providing direct patient care or carrying out common nursing tasks, such as nurse aides, orderlies, assistant technicians, attendants, home health aides, personal care aides, medication aides, geriatric aides, or other health aides. “Unlicensed person” also includes housekeeping, maintenance, and administrative staff for whom it is foreseeable that the person will come in direct contact with patients.