

Assisted Living Frequently Asked Questions

Note: The questions and answers found in earlier frequently asked questions documents have been combined and organized for easier reference. In addition, some of the previous answers have been expanded based on recent licensure experience to better address the question.

Table of Contents

Category	Page Number
A. Administrator Qualifications and Staffing	Page 1
B. Emergency Notification System	Page 5
C. Excludable Conditions and Exception Request	Page 6
D. Forms	Page 7
E. General/Other	Page 10
F. Informed Consent	Page 14
G. Licensing Inspection and Application Process	Page 15
H. Name "Assisted Living"	Page 17
I. Physical Site	Page 18
J. Reportable Incidents and Conditions	Page 21
K. Supplemental Health Care Services	Page 22
L. Waiver of Regulations	Page 23

A. Administrator Qualifications and Staffing

1. Question: *Please clarify the requirements for the assisted living administrator 100-hour standardized Department-approved training.*

Answer: In accordance with § 2800.64(a)(2)&(3), prior to initial employment as an assisted living administrator, a candidate must successfully complete a 100-hour standardized Department-approved administrator training course and pass a competency-based training test with a passing score. This requirement is the same as the requirement to be a personal care home (PCH) administrator under the § 2600 regulations. The required training topics for the assisted living course are outlined in §2800.64(b). While most of the training topics are similar to the training topics in the PCH regulations, there are additional topics unique and specific to the assisted living regulations. The Assisted Living Residence (ALR) Licensing Office is in the process of developing its own 100-hour assisted living administrator course. However, until that course is made available, the ALR Licensing Office has developed a 15-hour assisted living addendum course, which covers the additional topics unique to assisted living, to be used in conjunction with the current 100-hour PCH course. Therefore, administrators who have already taken and passed the 100-hour PCH course and test need only to take and pass the 15-hour assisted living course and test. With the exception of individuals licensed as a nursing home administrator, all other administrators must take and pass the 100-hour PCH course/test and the 15-hour assisted living course/test. Once the ALR Licensing Office develops its own 100-hour administrator course, all new administrators from that point forward will be required take and pass that course/test.

2. Question: At the time when the 100-hour personal care home course was first given, the competency test was not available. Do individuals who took the 100 hour course when the competency test was not available need to take the test?

Answer: Yes. Per § 2800.53(a)(6) an administrator is required to take and pass the test prior to 1/18/12. In the above situation, this person would have to take the competency test for the 100 hour course, in addition to the addendum course and test for the additional assisted living regulatory requirements.

3. Question: Are administrators who were grandfathered under Chapter 2600 for the 40 hour course or 52 hour course in place of the 100 hour course still considered grandfathered for the 100 hour course and test under Chapter 2800?

Answer: No. If an administrator has not yet taken the 100 hour course, they will have to take the 100 hour PCH course, the 15 hour assisted living addendum course, and pass both competency tests. Per § 2800.19(c), training requirements cannot be waived. In addition, the administrator must take the Assisted Living administrator orientation.

4. Question: If a person has taken the 100 hour personal care home course and the competency test; do they have to take the course and test again? Are there additional requirements?

Answer: An administrator who has taken the 100 hour PCH course and competency test will not have to retake this course again. However, in order to incorporate the additional topics required under § 2800.64(b) they must take the 15 hour assisted living addendum course and corresponding competency test. The administrator must also attend the Assisted Living administrator orientation.

5. Question: What are the requirements to be considered an administrator designee?

Answer: The administrator designee will have to meet the requirements listed under § 2800.56(b). These requirements are as follows: Have 3000 hours of direct operational responsibility in one of the identified settings, pass the Department-approved competency-based administrator training test and addendum test, meet the qualification and training requirements of a direct care staff person under §§2800.54 and 2800.65, be assigned in writing to supervise the residence during the administrator's absence, and shall be on call. A residence should review the above qualifications before assigning a person to become the administrator designee. Assisted living licensing staff will review the record and training requirements of the administrator designee during licensing inspections.

§ 2800.56(b)(1) states that the designee shall have 3000 hours of direct operational responsibility for a senior housing facility, health care facility, residential care facility, adult daily living facility or other group home licensed or approved by the Commonwealth. Therefore, the designee shall have at least 3000 hours of work experience in one of the specified locations in which they supervised care or coordinated varying aspects of the operation. This would include, but not be limited to, an administrator, supervisor, care manager, director of operations, or director of nursing. Such persons would typically be considered management staff in those facilities.

6. Question: *If the administrator designee takes the department approved competency training test and passes, is additional training still required to become an Assisted Living Administrator?*

Answer: An administrator must meet the qualifications and training requirements as indicated per §§2800.53 and 2800.64. This includes but is not limited to the educational requirements of an administrator, completion of the training courses, passing of the competency-based training tests, and completion of the orientation program. Refer to the regulatory requirements listed per §§ 2800.53 and 2800.64 for additional information.

7. Question: *Does a person who has received a National Assisted Living Certification also have to take the administrator competency test?*

Answer: Yes. All administrators have to take the 100 hour course, addendum course, as well as pass both competency tests.

8. Question: *What requirements must a licensed nursing home administrator fulfill to qualify as an administrator of an assisted living residence?*

Answer: A licensed nursing home administrator who is employed as an administrator prior to January 18, 2011 meets the training requirements and qualification requirements of an assisted living administrator as stated per §§ 2800.53 and 2800.64 if the administrator continues to meet applicable licensing requirements for their nursing home administrator license. A licensed nursing home administrator hired after 1/18/11 is not required to take the Department approved 100 hour PCH administrator course or the 15 hour assisted living addendum course; however, they are required to complete and pass both the Department-approved PCH 100 hour administrator competency based test and the assisted living addendum competency based test. Licensed nursing home administrators who wish to be an assisted living administrator should attend the assisted living administrator orientation.

9. Question: *What are the requirements of an assisted living residence to staff a nurse(s)?*

Answer: In accordance with § 2800.60(d), the residence shall have a licensed nurse available in the building or on call at all times. The licensed nurse shall be either an employee of the residence or under contract with the residence. The regulations do not specify whether the nurse on call or in the building at all times needs to be a Licensed Practical Nurse (LPN) or a Registered Nurse (RN). The use of a specific licensed nurse must not conflict with other licensure type requirements.

However, LPNs who complete resident assessments and approve support plans must be under the supervision of an RN as stated in §§ 2800.224(a)(1), 2800.224(c)(5), 2800.225(a) and 2800.227(b). “Under the supervision of an RN” means there is a registered nurse available to the LPN to provide direction and consultation on developing appropriate support plans, as well as providing periodic consultation on any nursing task or resident care activity if needed. LPNs may only perform duties that are within their scope of practice. The RN does not need to directly supervise the LPN; the RN just needs to be available to the LPN. The RN may be an employee of the residence or a contracted employee.

10. Question: Are staff persons that are already employed in the skilled nursing section of a facility required to have a new criminal background check completed and additional training in order to work in the assisted living portion of the same facility? Do staff persons already employed by a personal care home which is converting to an Assisted Living Residence need to obtain a new criminal background check?

Answer: In accordance with 6 Pa. Code Chapter 15.142(a)(3)(ii), an exception to the criminal background check is provided to employees who have complied with this section who transfer to another facility established or supervised, or both, by the same operator. Therefore, staff persons who have been continually employed by the same operator do not need to obtain an additional criminal background check. The residence should keep a copy of the original criminal background check in the staff person's file in addition to the staff person's original date of hire and hire date for the assisted living portion of the facility.

Any staff person who works in the assisted living portion of the facility must meet the education and training requirements set forth per §§ 2800.51-69. In addition, a staff person who works in a special care unit licensed under Chapter 2800 must meet the training requirements set forth in §2800.236.

11. Question: Define what is an acceptable period of time for an administrator to be absent?

Answer: § 2800.56(b) states that an absence must be temporary but does not define length of time. The Department may be able to provide further guidance given a specific scenario. For example, a temporary absence would include a two week vacation, but would not include a 6 month break while the Administrator worked in a different capacity.

12. Question: When will additional Assisted Living administrator orientation sessions be held?

Answer: Please visit the Department's website for more information:
http://www.aging.state.pa.us/portal/server.pt/community/assisted_living/19891 .

13. Question: Is there a requirement to have a dietician?

Answer: Yes. This is addressed in § 2800.60(e). The residence is required to have a dietician on staff or under contract to provide for any special dietary needs of residents as specified in their support plans.

14. Question: Can dually licensed facilities share staff among different service departments.

Answer: Staff persons who provide assisted living services must meet the staffing and training requirements of Chapter 2800. In addition, only the hours used providing assisted living services will be calculated in hourly requirements identified in § 2800.57. The residence's staffing pattern shall not conflict with other types of licensure requirements.

15. Question: If an existing assisted living residence staff person becomes a staff person in the Special Care Unit, what is the timeline for them to receive the additional 8 hour training?

Answer: §2800.236(a) states that each direct care staff person working in a special care unit for residents with Alzheimer's disease or dementia shall have 8 hours of initial training within the first 30 days of the date of hire and a minimum of 8 hours of annual training related to dementia care and services, in addition to the 16 hours of annual training specified in § 2800.65 (relating to staff orientation and direct care staff person training and orientation). Therefore, the staff person would be required to complete the additional 8 hours of initial training within the first 30 days of starting work on the special care unit. The staff person's record should clearly indicate the original date of hire to assisted living and the start date on the special care unit.

16. Question: Does a Certified Nursing Assistant (CNA) who serves as a direct care staff person need all of the training that is required of direct care staff?

Answer: Yes. Therefore, all direct care staff, even those with professional licenses, must complete the training as identified per §§ 2800.65 and 2800.69 with the exception of § 2800.63(c). In addition, the training requirements apply per § 2800.236 if the direct care staff person works on a special care unit.

The exception identified per § 2800.63(c) regarding obstructive airway techniques, first aid, and CPR, only applies to certified and registered medical personnel, and does not apply to certified nursing assistants.

17. Question: Is an online program acceptable for staff persons to obtain first aid and/or CPR training and certification?

Answer: Online instruction for First Aid and/or CPR is unacceptable and does not meet the requirements for §§ 2800.63 and 2800.65. The live instruction and hands-on practice are essential to grasping the information and techniques. This decision is consistent with the Department of Health, Adult Residential Licensing and Adult Day Licensing clarifications.

B. Emergency Notification System

1. Question: Is a public restroom required to have an emergency notification system?

Answer: Yes. Bathrooms in living units and common bathrooms within the residence that are used by residents are required to be equipped with an emergency notification system per § 2800.102(n).

2. Question: Are the emergency notification systems required on the special care units?

Answer: Yes. Due to residents having varying types and stages of dementia or brain injury the requirement remains in place. § 2800.231(a) states that the requirements under the special care unit are in addition to the other requirements in the chapter.

3. Question: Where do emergency notification systems have to be located if the living unit consists of multiple rooms?

Answer: The regulations state the minimum requirements for the emergency notification systems. §2800.102(n) states the requirement for one system to be in the bathroom. § 2800.101(r) states the requirement for one system to be in the main living unit. Therefore, if the unit has one system in the bathroom and another in any of the rooms in the living unit, then this would meet the requirement.

4. Question: Is the use of a PERS (Personal Emergency Response System) acceptable instead of the additional emergency response unit in the bathroom?

Answer: According to regulation § 2800.102(n), each bathroom needs to be equipped with an emergency notification system to notify staff in the event of an emergency. According to § 2800.101(r), each living unit must be equipped with an emergency notification system to notify staff in the event of an emergency. To ensure safety in these areas, the emergency notification system must be a permanent fixture that is always accessible and is not removed or left at another location. Even if the residence identifies in policy and/or contract that the PERS is to be worn at all times, the opportunity for the device to be removed or lost would present a potential safety risk to the resident. A residence is allowed to have pendants for residents to wear in addition to the permanent fixtures. The permanent fixtures most likely would be mounted onto the wall. Having a permanent system installed is not only for the benefit and use by the resident, but it can be used by staff and family members as well in the event of an emergency.

C. Excludable Conditions and Exception Requests

1. Question: Who determines if a person is qualified to provide a service?

Answer: § 2800.229(e)(10) states that for purposes of paragraphs 229(e)(1), 229(e)(4), 229(e)(7), and 229(e)(8), a "qualified individual" means an individual who has been determined by a certification provider listed under subsection (d) to be capable of care or administration under paragraphs (1), (4), (7), and (8). Certification providers listed in accordance to § 2800.229(d) include the administrator acting in consultation with supplemental health care providers, the individual's physician or certified registered nurse practitioner, and/or the medical director of the residence.

2. Question: Is an exception request needed for a person who receives insulin administration based upon a sliding scale from a staff person who completed the medication administration training and diabetes education training?

Answer: An exception request would not need to be submitted if the staff person administering the sliding scale insulin completed the medication administration course per § 2800.190(a), diabetes education per § 2800.190(b), and the staff person was either a licensed health care professional or other qualified individual per § 2800.229(e)(4). An exception request would not need to be submitted if the staff person completed the medication administration course, diabetes education, and was determined to be a qualified individual by one of the certification providers.

If the staff person was administering insulin based upon a physician's straight order of insulin that did not vary depending upon the resident's blood glucose level, then the staff person would need to have completed the medication administration course per § 2800.190(a) and diabetes education per § 2800.190(b).

3. Question: Does a person on continuous oxygen require an exception request?

Answer: In accordance with § 2800.229(e)(7), a resident receiving oxygen would require an exception request unless the individual is capable of self-administration or a licensed health care professional or other qualified individual administers the oxygen.

4. Question: Would an on-duty RN meet the requirement of being a "qualified individual" in caring for residents with excludable conditions? Would there be required documentation to show that an RN is a "qualified individual"?

Answer: An RN would meet the definition for a licensed health care professional in regards to 229(e)(1), 229(e)(4), 229(e)(5), 229(e)(6), 229(e)(7), and 229(e)(8). Therefore, an RN would not have to be determined by a certification provider to be a qualified individual since they would already meet the exception by being a licensed health care professional. An Exception request would not need to be filed with the Department. The nurse's license should be included in their staff record.

D. Forms

1. Question: When does the preadmission screening document need to be completed for admission to a secure care unit? Is the requirement for exactly 72 hours prior to admission or within 72 hours prior to admission?

Answer: §2800.231(c) states the requirement to complete the preadmission screening is within 72 hours prior to admission to a special care unit. Therefore, the form must be completed within the timeframe of 1-72 hours before admission. The requirement is not for exactly 72 hours prior to admission.

2. Question: Is the preadmission assessment screening form to be used for residents in standard assisted living, or only for residents of a special care unit?

Answer: The Department's Special Care Unit Preadmission Assessment Form must be completed for all residents being admitted to a special care unit. The Department's form was designed to be used as the preadmission screening for individuals with Alzheimer's disease, dementia or brain injury, and should also be used to meet the requirement for quarterly assessments (for individuals with Alzheimer's disease or dementia) and semiannual assessments (for individuals with brain injury) for residents of the special care unit.

For residents in the standard assisted living part of the residence an initial assessment must be completed within 30 days prior to admission, or within 15 days after admission if certain conditions apply. The residence may choose to use their own resident assessment form if it includes the same information as the Department's Resident Assessment form.

3. Question: For residents who currently reside in a secure dementia unit licensed under Chapter 2600, does the assisted living preadmission assessment form need to be completed prior to that resident transferring into a special care unit licensed under Chapter 2800?

Answer: Yes. The preadmission assessment form is a required form.

4. Question: Could the Mini Mental and or SLUMS assessments replace the special care unit preadmission assessment form or would the special care unit preadmission assessment form be required in addition to the Mini Mental and SLUMS assessments?

Answer: The preadmission assessment form for the special care unit is a mandatory form. The mini mental exam and/or SLUMS assessments may be completed in conjunction with the preadmission assessment form for the special care unit if desired by the residence.

5. Question: On the resident assessment form, under the medication administration section, the form indicates an "or" for the resident's ability to self administer medication. Is it permissible to check a box in both sections if a resident can self administer inhalers and eye drops but not other prescription medications?

Answer: It would be permissible to check both sections, however there should be further detail in the assessment and support plan regarding which medications and treatments can be self administered and which cannot be self administered.

6. Question: Who is responsible to complete the medical evaluation form?

Answer: As per § 2800.141(a), a resident shall have a medical evaluation by a physician, physician's assistant or certified registered nurse practitioner documented on a form specified by the Department. Therefore, a physician, physician's assistant or certified registered nurse practitioner would be responsible for performing the actual medical evaluation. If a residence's staff person types or fills in the form based upon the physician, physician's assistant or certified registered nurse practitioner's evaluation, the physician, physician's assistant or certified registered nurse practitioner must then review, sign and date the form. The physician, physician's assistant or certified registered nurse practitioner must perform the actual medical evaluation.

7. Question: If the facility has the term assisted living on the resident contract, will an addendum on the old contract be enough; instead of having to do a new contract?

Answer: It is acceptable if the residence is able to use an addendum to their current contract that incorporates the additional requirements and changes. The contract or addendum must include all of the requirements in Chapter 2800. The addendum would require all applicable signatures as defined in § 2800.25(b). Any new and/or current contracts for residents of the personal care home part of the facility must be revised to remove the term "assisted living" from its contents. If the facility does not apply for an ALR license, all references to "assisted living" must be removed from the contract entirely.

8. Question: Is Assisted Living Licensing going to post a model contract on the website?

Answer: While not required, it is the intention of the Assisted Living licensing unit to create and post a sample contract on the website at some point in the future.

9. Question: Will all of the forms be on the website?

Answer: Sample and mandatory forms are available from the Department's website <http://www.portal.state.pa.us/portal/server.pt?open=514&objID=807742&mode=2> .

10. Question: Some facilities use their own software to create support plans. Is it mandatory that they use the Department's version of the form?

Answer: No. §§ 2800.224(c)(5) and 2800.227(b) states that a residence may use its own support plan form if it includes the same information as the Department's support plan form. The residence can use their internal form as long as it captures all of the required information. The Department requests the residence's model of the support plan during the application process. The support plan will be reviewed at that time for applicable content.

11. Question: Does the assessment have to be done 30 days prior to admission for residents of the standard assisted living residence?

Answer: In accordance with § 2800.22(a)(2), the initial assessment must be completed within 30 days prior to admission. The initial assessment may be completed within 15 days after admission subject to special circumstances identified per § 2800.224. Therefore, if no special criteria exists, the assessment must be completed within 1-30 days prior to admission to the residence.

12. Question: Who can complete and approve resident assessments and support plans?

Answer: In accordance with § 2800.224(a)(1), the administrator, administrator designee, or LPN, under the supervision of an RN, or an RN shall complete the initial assessment.

In accordance with § 2800.224(c)(5), an LPN, under the supervision of an RN, or an RN shall review and approve the preliminary support plan.

In accordance with § 2800.225(a), the administrator or administrator designee, or an LPN, under the supervision of an RN, or an RN shall complete additional written assessments for each resident.

In accordance with § 2800.227(b), an LPN, under the supervision of an RN, shall review and approve the final support plan.

“Under the supervision of an RN” means there is a registered nurse available to the LPN to provide direction and consultation on developing appropriate support plans, as well as providing periodic consultation on any nursing task or resident care activity if needed. LPNs may only perform duties that are within their scope of practice. The RN does not need to directly supervise the LPN; the RN just needs to be available to the LPN. The RN may be an employee of the residence or a contracted employee.

Documentation on the assessment and support plan can include a signature of the supervising RN in addition to the signature of the person who completed the form.

13. Question: Can the preliminary support plan be updated with an addendum to count as completion of the final support plan or is a separate newly developed plan required? Is there an addendum form available?

Answer: Per § 2800.224(c)(1) an individual requiring services shall have a written preliminary support plan developed with 30 days prior to admission to the residence unless one of the conditions in § 2800.224(c)(2) apply. Per § 2800.227(a) each resident requiring services shall have a written final support plan developed and implemented within 30 days after admission to the residence. Per §2800.227(c) the final support plan shall be revised within 30 days upon completion of the annual assessment or upon changes in the resident's needs as indicated on the current assessment. The residence shall review each resident's final support plan on a quarterly basis and modify as necessary to meet the resident's needs. Therefore, the preliminary support plan, final support plan, support plan as a result of a significant change, and annual support plan must be newly developed plans. However, the quarterly reviews of the plans can simply be updates. The Department's sample support plan form has a box with the option to check preliminary, final, annual, or significant change. In addition, there are blocks on the last page to indicate when the quarterly reviews of the plan are completed.

14. Question: On the sample support plan form, section twenty-four, what types of information would address strategies that promote interactive communication on the part of and between direct care staff and the individual resident. Also, will a strategy need to be identified if a resident is alert and oriented and does not exhibit any difficulties in communication with staff?

Answer: § 2800.227(e) states that strategies that promote interactive communication on the part of and between direct care staff and individual residents shall be included in the final support plan. The residence should assess each resident and identify ways to improve communication between the resident and staff persons that are specific to each resident. Some residents may need an interpreter or may need the speaker to look directly at the resident. Other residents may need short, simple sentences spoken slowly. Some residents may respond better with open-ended questions that require more than a yes or no answer. Even higher functioning residents may need encouragement to interact. The support plan may identify that a resident enjoys talking about his/her family, hometown, a favorite sports team, etc. The techniques should be specific to the resident and include anything that will help promote interaction. A strategy should always be identified and be resident specific.

15. Question: If a resident did not require physical therapy at the time of admission but during the course of the resident's stay their needs changed and they required physical therapy, would the residence need to complete a new medical evaluation?

Answer: § 2800.141(b) states that a resident shall have a new medical evaluation if the medical condition of the resident changes prior to the annual medical evaluation. If the reason for the physical therapy was a result of a change in the medical condition of the resident, then a new medical evaluation is required.

A new medical evaluation may be required following a hospitalization, a new diagnosis, a change in mobility needs, an injury, a serious illness, a change in the level of care needs, the development of incontinence, etc. The resident's assessment and support plan should address the new information. A new medical evaluation must be completed for any change in the resident's medical condition.

E. General/Other

1. Question: When did the Assisted Living regulations go into effect?

Answer: The final form regulations were published in the Pennsylvania Bulletin on July 17, 2010. The regulations took effect January 18, 2011.

2. Question: What is an Assisted Living Residence?

Answer: While there are facilities in Pennsylvania today that call themselves assisted living residences, it was not until 2007 when Act 56 became law, that the state was provided with the authority to adopt regulations for the licensure of Assisted Living Residences. An assisted living residence is any premises in which food, shelter, assisted living services, assistance or supervision, and supplemental health care services are provided for a period exceeding twenty-four hours for four or more adults who are not relatives of the operator, who require assistance or supervision in such matters as dressing, bathing, diet, financial management, medication prescribed for self-administration, and evacuation from the residence in the event of an emergency. They are designed to provide an environment that combines housing and supportive services to allow people to age in place, maintain their independence and exercise decision-making and personal choice.

3. Question: How does an Assisted Living Residence differ from a Personal Care Home?

Answer: The four most significant differences between an Assisted Living Residence (ALR) and a Personal Care Home (PCH) are:

- **Concept** – Assisted Living Residences embody the concept of allowing a resident to “age in place” without having to move to a licensed long-term care facility when their care needs increase. While nursing homes play a valuable role in the continuum of care, most families today want the ability to remain in the setting of their choice.
- **Construction** – Rather than having rooms which may be shared by up to 4 persons, assisted Living residents have larger individual living units with kitchen capacity and private bathrooms. No one may be forced to share a living unit. This residential living model allows privacy and maximum independence.
- **Care** - The level of care provided in an Assisted Living Residence is distinguishable from a Personal Care home in that they may provide services that would otherwise be provided in a licensed long-term care facility.
- **Choice** – Assisted living allows residents more opportunities to exercise decision-making and choice. Part of that choice is having a better understanding of the services and rights available to all assisted living residents.

4. Question: I currently operate a licensed Personal Care Home (PCH). Do I have to be licensed as an Assisted Living Residence?

Answer: A licensed Personal Care Home does not have to pursue licensure as an Assisted Living Residence. It is a business decision left to each PCH whether or not to seek to become an Assisted Living Residence. The PCH also has the choice to seek to become dually-licensed as both a PCH and an ALR. Please see further questions and answers regarding the use of the name ‘Assisted Living.’

5. Question: Please clarify the 'opt out' provisions.

Answer: As defined in § 2800.1, the purpose of the assisted living regulations is to allow residents residing in assisted living residences to receive the assistance they need to age in place and develop and maintain maximum independence, exercise decision-making and personal choice. The Opt-Out provisions of the regulations support a resident's ability to exercise decision-making and make personal choices about the services they receive.

According to § 2800.220(d), a resident may choose to opt out of housekeeping, laundry and meals and snacks. If a resident chooses to opt out of one of these services, the residency contract must specify the service(s) not being provided and the corresponding fees charged by the residence must be adjusted accordingly to account for the reduction in service.

6. Question: Can a resident opt out of one meal? If so, does the cost need to be broken down per meal?

Answer: Yes. Per § 2800.220(d) a resident can opt out of the services listed under §§ 2800.220(c)(1)(ii)-(iv), one of which is nutritious meals and snacks. The intent of the opt-out provisions for meals and snacks was to allow residents the option to opt out of breakfasts, lunches, dinners and/or snacks; not all of the meals and snacks entirely (but may do so if they wish). We recommend allowing residents the choice to opt out of particular meal times, not breakfast one day and another meal another day, but the choice of opting out of all breakfasts, for example, if they choose. Because kitchen capacity is a requirement in living units as part of the assisted living regulations, residents should have the option to prepare their own meals/snacks and have their fees adjusted accordingly. It is also a resident's right to purchase groceries and prepare their own food in their living units. For example, some residents may choose to make all their own breakfasts in their living units, or prepare all their own snacks. This would need to be addressed in the resident to residence contract.

Residency contracts run month to month, therefore if a resident initially elects to opt out of a particular meal, but later is determined unsafe to prepare their own meals in their living unit, a new contract could be drawn up or the original contract amended. If the residence is concerned about a resident not eating as result of opting out of a meal, not only should the residence be monitoring the resident, but the residence should discuss their concerns with the family. If the family disagrees with the residence's concerns, this would be an appropriate time to utilize the informed consent process.

7. Question: Who licenses Assisted Living Residences?

Answer: The Office of Long-Term Living (OLTL), Division of Licensing, which jointly reports to both the Department of Aging and the Department of Public Welfare, is responsible for the licensure of assisted living residences. There is licensure staff located throughout the Commonwealth. This is a separate licensing operation from the Adult Residential Licensure office within the Department of Public Welfare.

8. Question: What building code is required on the certificate of occupancy for Assisted Living?

Answer: Per the PA Uniform Construction Code Act of 1999, the International Building Code (IBC) became the standard for how buildings are to be built or renovated. The IBC code for assisted living facilities that are considered "new construction", that is were not licensed as a personal care home prior to January 18, 2011, is I-2. For existing licensed personal care homes that apply for an assisted living residence license, The Department of Public Welfare is presently engaged with stakeholder associations

to determine the required IBC codes for personal care homes. Until those discussions are concluded and a determination issued, a licensed personal care home that applies for an assisted living residence license must possess a valid residential occupancy code and submit a copy of their certificate of occupancy with their application.

9. Question: *What kind of services will be required in an Assisted Living Residence?*

Answer: Both assisted living services and supplemental health care services will be provided and/or arranged for residents in an Assisted Living Residence. In accordance with § 2800.220(e), the residence shall provide or arrange for supplemental health care services including, but not limited to, the following: hospice services, occupational therapy, skilled nursing services, physical therapy, behavioral health services, home health services, escort service if indicated in the resident's support plan or requested by the resident to and from medical appointments, and specialized cognitive support services. Furthermore, § 2800.220(b) identifies that a residence shall at a minimum provide the following services: meals and snacks, laundry services, social and recreational activities, assistance with performing ADLs and IADLs, assistance with self-administration of medication or medication administration, housekeeping services, transportation, financial management, 24 hour supervision, monitoring and emergency response, activities and socialization, and basic cognitive support services. Residents do not have to receive all of the above services. However, residents must receive the services identified in their individualized assessments and support plans.

10. Question: *How is it determined that a person's service needs can be met by an Assisted Living Residence and what services will meet those needs?*

Answer: Within 60 days prior to admission, a potential resident must have a medical examination documenting the resident's condition and needs. Prior to admission, a certification must be made that the needs of a potential resident can be met by the services provided by the residence. Certification is provided by either the administrator of the assisted living residence in consultation with supplemental health care providers, the individual's physician or certified registered nurse practitioner or a medical director of the residence. There is a certification section on the last page of the sample resident assessment form. In addition, a residence shall comply with the excludable conditions and exceptions per § 2800.229.

11. Question: *What are the residences' responsibilities regarding transportation? Is the residence responsible for providing the residents with transportation to social visits?*

Answer: § 2800.171(a) states that a residence shall be required to provide or arrange for transportation on a regular weekly basis that permits residents to schedule medical and social appointments within a reasonable local area. In accordance with §2800.220(b)(7), transportation is one of the minimum assisted living services that must be provided by the residence. Transportation is identified as one of the services under the enhanced core package per § 2800.220(c)(2). The requirements for §§2800.171(b)(1)-(7) apply whenever staff persons or volunteers of the residence provide transportation for the resident. Chapter § 2800.171(c) identifies documentation needed for each of the residence's vehicles used to transport residents. And, §§ 2800.171(d) and 2800.171(e) identify pick-up and drop-off times for resident's medical and social appointments.

12. Question: Define financial management? What are the responsibilities for an assisted living residence regarding financial management?

Answer: § 2800.4 defines financial management as (i) an assisted living service requested or required by the resident in accordance with his support plan, which includes taking responsibility for or assisting with paying bills, budgeting, maintaining accurate records of income and disbursements, safekeeping funds and making funds available to the resident upon request, and (ii) the term does not include solely storing funds in a safe place as a convenience for a resident. Financial management must be provided in an assisted living residence if the service is requested or required by the resident. In accordance with §2800.220(b)(8), financial management is one of the minimum assisted living services that must be provided by the residence. § 2800.20(a) states that a resident may manage his personal finances unless the resident has guardian of his estate. When a residence holds resident funds, then the requirements §§ 2800.20(b)(1)-(10) apply.

13. Question: If a residence applies for and receives a PCH license, is the residence required to add "Personal Care Home" to their name?

Answer: Please refer questions regarding personal care homes to Adult Residential Licensing staff. Adult Residential Licensing's website is located at <http://www.dpw.state.pa.us/provider/longtermlivingservices/>.

14. Question: Is a Tuberculosis test required for all residents entering into Assisted Living Residence?

Answer: Yes. § 2800.141(a) states that the medical evaluation must include an indication that a tuberculin skin test has been administered with negative results within 2 years; or if the tuberculin skin test is positive, the result of a chest X-ray. In the event a tuberculin skin test has not been administered, the test shall be administered within 15 days after admission. A Department representative will work with the residence on a transition plan if a personal care home is converting into an assisted living residence.

F. Informed Consent

1. Question: What is informed consent? What types of situations would an informed consent agreement be used? Would an informed consent agreement be used if a resident decides to opt out of a medical procedure?

Answer: Informed consent is defined as a formal, mutually-agreed upon, written understanding which identifies how to balance the assisted living residence's responsibilities to the individuals it serves with the resident's choices and capabilities, with the possibility that those choices will place the resident or other residents or staff at risk of harm. It is a process that can be initiated by either the licensee or resident, where both parties come together to discuss the decision, behavior or action that places the resident or other residents or staff at risk or harm or hazards inherent in the resident's actions. All parties must agree on the resolution in order for there to be an informed consent agreement. The agreement must be voluntary and individualized in nature. For more information on informed consent see regulation § 2800.30. The use of this form is driven by the behaviors and actions of the resident; and an agreement on the risks and consequences. The intention of the informed consent process is to reach a mutual agreement between the resident and the residence. In the above scenario, the resident

and residence would most likely not be able to reach an agreement. An example of a situation that may result in a successful negotiation would be if the resident was diagnosed with diabetes mellitus and wanted to eat concentrated sweets. The parties may be able to agree to the resident eating a concentrated sweet for dessert on Fridays and Saturdays so long as the resident's blood sugar did not exceed a certain number.

2. Question: Is it possible for a residence to refuse a resident's choice to opt out of specific services due to safety concerns?

Answer: No, § 2800.220(d), states, "If a resident wishes not to have the residence provide a service under subsection (c)(1)(ii)–(iv), the resident-residence contract must state the following: (1) The service not being provided, and (2) The corresponding fee schedule charge adjustment that takes into account the reduction in service.

If the residence feels that the resident's decision, behavior or action creates a dangerous situation then, as stated in § 2800.30(a)(1), the residence may initiate the informed consent process. The initiation of the informed consent process does not guarantee that an informed consent agreement, which is agreeable to all parties, will be reached and executed. If the resident continues to be non-compliant and the informed consent process does not produce an agreement, the residence could initiate the discharge process depending upon its written policies regarding criteria for discharge and scope of services.

G. Licensing Inspection and Application Process

1. Question: Does a residence have to convert support plans before the initial inspection for new applicants?

Answer: No. The Assisted Living Residence's support plans are not required at the time of the initial inspection of the residence. However, support plans are expected to be completed and accessible for review at the time of the subsequent inspection which will occur within 90 days of the initial inspection. During the application process, the residence will be asked to submit the form that they intend to use for the support plan requirements. During the initial inspection, your licensing representatives will work with you to develop an individualized transition plan to convert resident contracts, assessments and support plans.

2. Question: How is an administrator to verify completion of the online OAPSA training which is an item required to be submitted on the Assisted Living application checklist?

Answer: There is a test at the end of the online training. The administrator and all management staff persons should print their responses to the test from the web, and sign and date it. The administrator should send copies of these during the application process, in addition to keeping the original signed copies as verification of having taken the training and test.

3. Question: Can the beds float within a facility with the resident?

Answer: No. A residence applying for dual licensure must have the living units associated with assisted living located in a separate and distinct location from the PCH beds. This means that a residence applying for an assisted living license should at least have a floor, wing or hallway devoted to assisted living services.

4. Question: What does “dually-licensed” mean?

Answer: A licensed PCH may submit an application requesting dual-licensure if the PCH and Assisted Living Residence (ALR) are collocated in the same building. However the areas licensed as an ALR must be separate and distinct from the PCH. Examples of separate and distinct include wings, floors, or hallways. A facility that is dually-licensed must request approval from the Department to share the administrator for the two licensed facilities. A dually licensed residence maintains both a PCH license and an ALR license.

5. Question: If a facility is dually licensed, will they have 2 inspections annually?

Answer: The initial inspection will not be a joint inspection with personal care home licensing. AL Licensing will coordinate future inspection dates after the initial license period. The goal is to align license certificate dates so that joint inspections will be more easily coordinated. Complaint and incident-related inspections may be joint inspections depending on the circumstances. Note that in order to have a dual license inspection, the licensed personal care home and the assisted living residence must be collocated in the same building and each must be located in a distinct part of the building.

6. Question: How many licenses can a facility obtain?

Answer: A facility can obtain any number of licenses for which they apply and meet the regulatory requirements. Chapter 2800 does not limit the number of licenses for different services that a facility can obtain. The area of the residence to be licensed for assisted living must be separate and distinct from the areas under different licensure (§ 2800.11(g)). An assisted living residence with multiple buildings located on the same premises may apply for a single assisted living residence license. The assisted living regulations do not require a separate license for each building.

7. Question: If a facility is licensed by personal care home licensing with a capacity of 60, and the facility decides to apply for 4 assisted living beds, do they have to reduce the total number of PCH beds?

Answer: Yes. The capacity of the personal care home license would have to be reduced if the area that was used to calculate the personal care home licensed capacity is being converted to assisted living. The number of beds that should be reduced on the personal care home license capacity would depend upon the square footage and other requirements. The facility should notify Adult Residential Licensing of the need to decrease the facility's capacity. The 4 assisted living beds (units) must be located in a separate and distinct part of the building.

8. Question: Does the facility have to post the "Resident's Rights" poster when applying for the AL license?

Answer: Yes. The facility should have the resident's rights poster posted for the initial and subsequent inspections.

9. Question: The section that we are thinking about designation as AL is currently being occupied by residents receiving personal care services. Do we need to have these residents move, or do we have to make them become assisted living residents immediately? Could they remain personal care home residents and be transitioned into assisted living in the future.

Answer: The area or location for assisted living licensure in regards to dual licensure must be separate and distinct from other locations. Therefore, it is not acceptable per regulation to have residents for the personal care home in the area that is identified as separate and distinct for assisted living. A facility should discuss the options and differences with the residents, designated persons, family members and physicians prior to transitioning a resident into the assisted living segment of a facility. If a residence is converting their personal care home into an assisted living residence, then licensing staff will work with the Administrator on a transition plan.

10. Question – What are the licensure fees?

Answer: The license application and renewal fee is \$300. In addition, there is a \$75 per bed fee. The per bed fee may be adjusted by the Department annually at a rate not to exceed the Consumer Price Index. The Department will publish a notice in the *Pennsylvania Bulletin* when the per bed fee is changed. If the assisted living residence wishes to apply for a special care unit designation, then an additional \$150 application fee will apply. All fees are due annually. The initial licensing application fees are refundable if an Assisted Living license is not issued.

11. Question: Is there a minimum capacity required for applying for an assisted living license?

Answer: A facility that provides assisted living services to four or more residents must be licensed as an assisted living residence. In addition, a residence may not use the term assisted living in their name, service description, or any written material unless the facility is licensed as an assisted living residence.

12. Question: When completing the application process for a residence transitioning from a personal care home to an assisted living residence, do direct care staff need to have the required training completed prior to the initial licensing inspection?

Answer: No. After the personal care home receives their initial assisted living license, the residence must complete training specified in § 2800.65 for those topic areas that are new requirements beyond those found in the Chapter 2600 regulations as well as the dementia related training specified in §2800.69. These additional topics include behavioral management techniques, understanding the resident's assessment and how to implement the resident's support plan, person-centered care and aging in place, and the initial 4 hours of dementia related training. When the assisted living licensing representatives return to the facility within 3 months for the follow-up inspection, they will review the training records to ensure this was accomplished.

If a residence was not licensed as a personal care home, is a brand new residence, or was a personal care home but hired new staff after the initial licensing inspection, the staff would need to complete training within the timelines for new hires as per §§ 2800.65 and 2800.69. If the residence is applying for special care licensure, the initial training as specified in § 2800.236 must be completed within 30 days of hire.

H. Name “Assisted Living”

1. Question: If a facility is dually licensed, do they have to change their name?

Answer: No. A facility is expected to change their name, written material including web pages, etc. if it is not licensed as an assisted living residence and uses the term/name "assisted living".

2. Question: What is the time frame for facilities to have their name changed?

Answer: Act 56 of 2007, which directed the Department to promulgate regulations for assisted living residents states, “no person, organization, or program shall use the term ‘assisted living’ in any name or written material unless the person, organization, or program is an assisted living residence licensed in accordance with 55 Pa.Code Chapter 2800”. Compliance with this requirement is important in order to ensure that residents and their families are informed of the nature of the service they receive and the entity that provides it. The Regulations took effect January 18, 2011. The Department will be enforcing this provision in the very near future.

3. Question: If a facility has the term ‘assisted living’ in their name and are applying for an assisted living license; do they have to change their name?

Answer: No. Facilities only have to change their name if they use the term ‘assisted living’ in their name and do not become licensed, at least partially, as an assisted living residence.

4. Question: My facility calls itself “assisted living”. How does this affect my decision to apply for assisted living licensure?

Answer: Act 56 states that in order for a facility to identify itself as an Assisted Living Residence it must be licensed as an Assisted Living Residence. If a licensed Personal Care Home has “assisted living” in its name and/or any written, then it must either be licensed as an Assisted Living Residence or change its name and remove the term “assisted living” from any written material. This statutory requirement also extends to how the facility presents itself to the community, such as on the Internet or in marketing materials. It also extends to the use of the term “assisted living” on internal forms and contracts.

5. Question: If a facility has less than four residents in their assisted living unit and they wish to maintain the “Assisted Living” title, do they need a license?

Answer: In accordance with 62 P.S. § 1057.3(i), “No person, organization or program shall use the term “assisted living” in any name or written material, except as a licensee in accordance with the article.” Therefore, any residence would have to hold an assisted living license in order to have the term “assisted living” in any name or written material.

1. Physical Site

1. Question: Does every trash can in an assisted living residence need a cover?

Answer: According to § 2800.85(d), trash in kitchens and bathrooms shall be kept in covered trash receptacles that prevent the penetration of insects and rodents. Trashcans in main kitchens, country kitchens, and public bathrooms in an assisted living residence must be covered by a lid. However as an alternative, a trash can within an enclosed cupboard in a country kitchen is also considered covered. Trashcans in kitchenettes and bathrooms in an individual living unit do not have to be covered. However, appropriate sanitary conditions should be maintained in the resident individual living unit and bathroom. Furthermore, § 2800.85(e) states the requirement for trash outside the residence shall be kept in covered receptacles as well.

2. Question: How do the individual living units in an Assisted Living Residence differ from the rooms in a Personal Care Home?

Answer: A resident, instead of having a room as in a PCH, would have an individual living unit in an ALR. The individual living unit is larger; 225 square feet of floor space for new construction and 160 square feet for currently licensed personal care homes that obtain a license for assisted living. If the resident chooses to share their room with another resident, then the room size would be 300 square feet for new construction and 210 square feet for licensed personal care homes that obtain an assisted living license.

There are other differences in addition to size. Each individual living unit is to have its own bathroom and closet space. Each living unit is to also have kitchen capacity. For new construction that includes a cabinet for food storage, a small bar-type sink with hot and cold running water and space with electrical outlets suitable for small appliances such as a microwave and a refrigerator. For personal care homes that become licensed assisted living residences the individual living unit must have space with electrical outlets suitable for small appliances, such as a microwave and refrigerator and access to a sink for dishes, a stovetop for hot food preparation and a food preparation area in a common area. Finally, in an assisted living residence there must be an emergency notification system in the main living unit and in the bathroom of the living unit. The living units in an ALR also are required to have individually controlled thermostats for heating and cooling and telephone jacks.

3. Question: What is the difference between new construction and existing facilities when determining the correct square footage for the individual living units?

Answer: Facilities licensed as a personal care home prior to the effective date of the assisted living regulations (January 18, 2011) are considered existing facilities. Facilities that apply for an assisted living license after the effective date that are not currently licensed as a personal care home are considered new construction.

Important clarification –If an ALR that was a licensed PCH upon licensure as an ALR decides to build an addition to their facility, that addition would be considered new construction and would have to follow the larger square footage requirement for the individual living unit of 225 square feet for a single occupancy unit or 300 square feet for a double occupancy unit in the new addition.

4. Question: Can a resident use a flashlight, night light, or similar light instead of having a lamp at bed side. Can base board lighting be used for this requirement?

Answer: Yes. As long as the source of lighting would provide enough light at night to prevent falls. The source of lighting should either be accessible at bedside or always turned on at night.

5. Question: Is the living area required to have 2 sinks?

Answer: Having a sink in the kitchen and a sink in the bathroom is required for new construction under Chapter 2800. Existing construction, which consists of a facility operating as a personal care home prior to 1/18/2011, is only required to have a sink in the bathroom of the living unit. The residence must, however, provide access to a sink for dishes in a common area as stated in § 2800.101(d)(2)(ii).

6. Question: What if the living area has a vanity area with a sink outside of the bathroom? Is there a need for a sink in the bathroom?

Answer: All bathrooms are required to have a sink per § 2800.102(b). If the bathroom does not have a sink located in the bathroom, the residence may submit a waiver request with their application for consideration.

7. Question: Is a resident permitted to provide their own furnishings?

Answer: Yes. It is permissible for a resident to supply their own furnishings.

8. Question: In regards to existing construction, can the common area resident kitchen be kept locked and access provided by a staff person?

Answer: In accordance with § 2800.101(d)(2)(ii), the residence shall provide access to a sink for dishes, a stovetop for hot food preparation and a food preparation area in a common area. A common resident kitchen may not include the kitchen used by the residence staff for preparation of resident or employee meals, or the storage of goods. It would be acceptable for a staff person to provide access to the common kitchen, if the residence assures that a resident will have access at any time including during overnight hours.

9. Question: Is a residence required to provide the resident with a refrigerator?

Answer: Yes. § 2800.101(d) requires that for both existing and new construction that upon entering the residence, the resident or his designated person shall be asked if the resident wishes to have a cooking appliance or small refrigerator, or both. The cooking appliance or small refrigerator, or both, shall be provided by the residence if desired by the resident or his designated person. If the resident or his designated person wishes to provide his own cooking appliance or small refrigerator, or both, it must meet the residence's safety standards. An appliance shall be designed so it can be disconnected and removed for resident safety or if the resident chooses not to have the appliance within his living unit.

10. Question: What is considered to be an acceptable cooking appliance? Does a stove have to be provided to the resident if requested?

Answer: An acceptable cooking appliance is one that allows a resident to heat or prepare a simple meal. A residence may implement a policy that describes the cooking appliances it will or will not allow for safety reasons. However, any policy implemented by a residence cannot be so restrictive as to prevent a resident from preparing a simple meal. The cooking appliances offered by the residence may include a stove and/or microwave. An appliance shall be designed so it can be disconnected and removed for resident safety or if the resident chooses not to have the appliance within his living unit.

11. Question: Are residents required to be able to operate the door locking system used by the residence?

Answer: § 2800.101(h) indicates that each living unit must have a door with a lock, except where a lock in a unit under a special care designation would pose a risk or be unsafe. § 2800.224(a)(5) indicates that a resident must be assessed to safely operate key-locking devices. Therefore, a resident should be assessed to ensure that they are able to effectively and safely operate the key locking device. An exception to the requirement of having a lock on the door to a living unit would be in a situation where the lock would pose a safety risk to residents on a special care unit.

12. Question: Does a “Special Care Unit” have to be a locked unit or can a facility utilize technology such as the “Wander Guard” system?

Answer: As per § 2800.233(d), “Doors that open onto areas such as parking lots, or other potentially unsafe areas, shall be locked by an electronic or magnetic system. An electronic or magnetic system on doors that do not open onto unsafe areas are not required. However, a residence shall disclose to individuals a description of the security measures provided by the residence per §§ 2800.231(h) and 2800.231(i). The residence shall identify measures to address individuals with Alzheimer’s disease or dementia or with INRBI who have tendencies to wander per § 2800.231(j). The special care unit needs to be a separate area with a specified licensed capacity, and cannot be intermixed with residents not receiving the care of a special care unit. A residence would need to appropriately screen and assess residents to ensure that their needs could be met with the security measures provided by a particular special care unit.

J. Reportable Incidents and Conditions

1. Question: One of incidents deemed as reportable is “a serious injury, illness or trauma requiring treatment at a hospital or medical facility.” What is the definition of “a serious injury, illness or trauma requiring treatment at a hospital or medical facility?” If a resident is found on the floor possible due to Syncope, then would the residence need to complete a reportable incidents and conditions form?

Answer: § 2800.16(a)(3) does not include the word “serious.” If there was an injury, illness or trauma that required treatment at a hospital or medical facility, then it would have to be reported in accordance with § 2800.16(c). The regulation also states that this does not include minor injuries such as sprains or minor cuts. The term “requiring treatment at a hospital or medical facility” includes outpatient and emergency room care and treatment. This does not include scheduled outpatient or inpatient medical

treatment or hospitalization that is not due to an injury, illness or trauma. The affected resident's support plan should be expanded to address the issue if it reoccurs (e.g. resident has multiple falls). Hospital visits for diagnostics, if no treatment is provided, is also not reportable. In regards to the resident with possible Syncope, if the resident suffered an injury, illness or trauma that required treatment at a hospital or medical facility, then it would have to be reported in accordance with § 2800.16(c). The support plan should be expanded to address this issue if it reoccurs.

2. Question: Why is it required to provide the resident's funding source in the resident information section of the reportable incidents and conditions report?

Answer: The funding source is statistical information that the Department must report to Centers for Medicare Medicaid Services (CMS). This information will be more applicable if funding through a waiver program becomes available for assisted living services.

3. Question: Does the reportable incidents and conditions form need to be submitted to the Department via the assisted living email address?

Answer: A written report must be sent via email or fax to the Department's Assisted Living Licensing Office within 24 hours of the incident. The email address is ALR-Incident-Complaint@pa.gov. The fax number is 717-346-1483. The contact information is included on the incident report form available from the Department's website. The Department's preferred means of transmission is through email.

K. Supplemental Health Care Services

1. Question: Could you please give greater clarification to supplemental services and the role the assisted living residence provider plays? For example, I do not feel I have a full appreciation for the difference between a personal care home resident needing outpatient therapy such as physical or occupational therapy and the facility coordinating this service and how the role or the involvement of the assisted living residence would be different. The therapy provider within a personal care home would have a relationship with the resident not the facility and would bill accordingly. How might this relationship and/or coordination of supplemental services look different within the assisted living residence?

Answer: One of the key aspects of an assisted living residence is they allow a resident to age in place. An assisted living residence may provide services that otherwise would be provided in a licensed long-term care facility such as a nursing home, whereas a personal care home is prohibited from doing so. §2600.(1)(b) (personal care home regulations) states that personal care homes are designed to provide safe, humane, comfortable and supportive residential settings for adults who do not require the services in or of a licensed long-term care facility, but who do require assistance or supervision with activities of daily living, instrumental activities of daily living, or both. Chapter 2800 specifically incorporates the ability for a resident to "age in place" as per § 2800.228(b)(2) by stating that prior to initiating a transfer or discharge of a resident, the residence shall make reasonable accommodation for aging in place that may include services from outside providers. Supplemental services may be provided by the resident's family, residence staff, contracted service providers, or private duty staff as agreed to by the resident and the residence. In accordance with § 2800.220(e), the residence shall provide or arrange for the provision of supplemental health care services, including, but not limited to, hospice services, occupational therapy, skilled nursing services, physical therapy, behavioral health services, home health

services, escort services to and from medical appointments, and specialized cognitive support services. § 2800.42(y) states that to the extent prominently displayed in the written contract, a residence may require residents to use providers of supplemental health care services. When the residence does not designate, the resident may choose the supplemental health care service provider.

2. Question: *If a resident coordinates their own supplemental services, does the residence need to have a backup plan if the providers of those supplemental services fail to deliver?*

Answer: Yes. Per § 2800.220(e) the residence shall provide or arrange for the provision of supplemental services. If the resident chooses to coordinate their own supplemental services and that supplemental service provider fails to provide those services, it is ultimately the residence's responsibility to ensure that the resident's care needs are met. A residence may also require a resident to utilize specific supplemental service providers. It is required that an ALR specify in the resident/residence contract its policy on supplemental service providers and whether or not a resident is required to use certain supplemental service providers. If a resident identifies a supplemental service provider that is not currently utilized by the ALR, it is recommended that the ALR consider allowing this provider to provide supplemental services. It is also recommended that the residence include information on supplemental healthcare services in their resident handbook.

In the case where the ALR permitted a resident to use a supplemental service provider not previously vetted, and there is an occurrence of failure to provide services, in accordance with any contract that is established between the ALR and the supplemental service provider, the ALR may deny that supplemental service further access to the facility.

L. Waiver of Regulations

1. Question: *What will be the turnaround time on waiver requests?*

Answer: § 2800.19(b) states that once the Department receives a waiver request it must post the waiver on the Department's website with a 30-day public comment period prior to final review and decision on the waiver request. Assisted Living Licensing intends to respond to waiver requests as soon as possible after the 30-day public comment period. The waiver decisions will be on a case by case basis. The response time will depend upon the complexity of the situation. In some situations, Assisted Living Licensing may approve a temporary waiver decision before the 30 day comment period is complete with the understanding that the temporary waiver can be revoked pending further review after the 30 day comment period ends.

2. Question: *Does the residence need to provide a bed for the resident who prefers sleeping in a recliner? Can the residence apply for a waiver in order for the resident use a recliner instead of a bed?*

Answer: The residence may apply for a waiver to replace the bed with a recliner. These situations will be evaluated on a case by case basis. § 2800.19 outlines the regulatory requirements regarding waiver requests. The request must be submitted on a form prescribed by the Department which is available under the forms section of the website.

3. Question: Does a licensed nursing home administrator need to submit a waiver for annual training hours?

Answer: In accordance with § 2800.64(g), A licensed nursing home administrator is exempt from the training requirements in § 2800.64 (with the exception regarding administrators hired after 1/18/11 and the need to complete the competency tests). Therefore, if an NHA maintains a current license, then a waiver regarding annual training is not required.

4. Question: Do you need a waiver for residents that have excludable conditions and exceptions?

Answer: No. A residence shall file an Exception Request for excludable conditions in accordance with §2800.229. The exception request form, process, and an informative flow chart are available at the Department's Assisted Living website.

5. Question: If the resident's living unit is 145 square feet but the bathroom is a larger space, could a waiver be granted to address the rooms' square footage not meeting the required space?

Answer: § 2800.101(b)(1) states the requirement for new construction of residences after January 18, 2011 in which each living unit for a single resident must have at least 225 square feet of floor space measured wall-to-wall, excluding bathrooms and closet space. § 2800.101(b)(2) states the requirement for facilities in existence prior to January 18, 2011 in which each living unit for a single resident must have at least 160 square feet measured wall to wall, excluding bathrooms and closet space. A residence may submit a waiver request for consideration. The square footage requirement for the living units is a central theme to this new standard.

6. Question: Can a waiver be provided for a resident bedroom that does not have a door?

Answer: § 2800.101(o) states that in living units with a separate bedroom, there must be a door on the bedroom. The Department may review floor plans that are questionable as to whether or not the bedroom meets the intent of the regulation, which is to provide privacy. Privacy is a resident right and cannot be waived.