

DEPARTMENT OF HEALTH

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The Director of the Department of Health (“Department”), pursuant to with the authority set forth in Section 1301 of 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.)) (the “Act”) and in accordance with Mayor’s Order 2005-137, dated September 27, 2005, hereby gives notice of her intent to adopt, on an emergency basis, the following amendments to Chapter 101 (Assisted Living Residences) of Title 22 (Health), Subtitle B (Public Health and Medicine) of the District of Columbia Municipal Regulations (“DCMR”).

The Department has determined that there are a number of gaps in the Act which put residents at risk of injury to their persons and to the rights granted to them under the Act. This emergency rulemaking is necessary to preserve the health, safety, and welfare of District residents to address those gaps and immediately preserve and promote the health, safety, and welfare of the public by establishing additional regulations for Assisted Living Residences (“ALRs”), in order to set forth requirements to meet emergency preparedness and fire prevention guidelines, as well as clear and comprehensive requirements for operating an ALR in a manner that preserves the health, safety, and welfare of the residents within.

This emergency rulemaking is necessary to immediately implement ALR rules that: ensure all ALRs comply with fire prevention codes or emergency preparedness guidelines; ensure a background check of ALR license applicants; require all ALRs to investigate and report unusual incidents that jeopardize the health and safety of ALR residents; protect ALR residents from entering into agreements that would relieve ALRs from their duty to administer a medication to a resident; ensure that residents who are involuntarily discharged receive proper written notice of the resources and the rights to challenge the discharge that are due to them under D.C. Law 6-108; establish a standard for the types of health information that must accompany a resident who is discharged or transferred to another facility to ensure the receiving facility has an adequate medical history for the resident to immediately resume care upon receipt; ensure that each ALR has no less than one (1) registered nurse available to the ALR twenty-four (24) hours a day, seven (7) days a week; require all ALRs to implement policies and procedures to ensure the supervision of visitors who are likely to have access to resident living units; ensure that all ALRs maintain sufficient supervision of the healthcare professionals that are hired privately by ALR residents; establish a standard for medication self-administration assessments; ensure safe medication storage parameters; or require ALRs to document, investigate, and report all adverse drug reactions. This emergency and proposed action will supplement the provisions of the Act in order to ensure that the aforementioned provisions are in place to immediately preserve the health, safety, and welfare of ALR residents.

In addition to establishing the aforementioned provisions, this rulemaking action will also enhance and clarify the Act’s existing provisions as necessary to address current industry practices and challenges while promoting and protecting ALR residents’ rights, health, and safety. Lastly, this rulemaking relocates the section titled “Fees” from 22-B DCMR § 10101 to 22-B DCMR § 10105, but does not make any changes to the existing language in the section.

The Department is aware that regulations governing the practice of assisted living administrators and the licensure of said practice have not yet been published. 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 by the Director to practice assisted living administration until rules have been promulgated to govern said licensure and authorization.

This emergency rule was adopted on August 16, 2018, and became effective immediately on that date. The emergency rule will expire one hundred twenty (120) days from the date of adoption, on December 14, 2018, or upon publication of a Notice of Final Rulemaking in the *D.C. Register*, whichever occurs first.

The Director of the Department also gives notice of her intent to adopt this rule as final in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*, and upon completion of the forty-five (45) day Council period of review if the Council does not act earlier to adopt the rules by resolution.

Chapter 101, ASSISTED LIVING RESIDENCES, of Title 22-B, PUBLIC HEALTH AND MEDICINE, is amended in its entirety to read as follows:

CHAPTER 101 ASSISTED LIVING RESIDENCES

Secs.

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10100 GENERAL PROVISIONS

- 10100.01 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.*), as amended from time to time (hereinafter, "the Act").
- 10100.02 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 assisted living residences within the District of Columbia.
- 10100.03 Nothing in this chapter shall be construed to contradict the provisions of the Act or abridge the residents' rights provided therein.
- 10100.04 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").

10101 PURPOSE

- 10101.01 The purpose of this chapter is to supplement provisions of the Act, which sets minimum, reasonable standards for licensure of assisted living residences ("ALRs") in the District of Columbia. This chapter is intended to maximize independence and promote the principles of individuality, personal dignity, autonomy, freedom of choice, and fairness for all individuals residing in assisted living programs while establishing reasonable standards to protect the individuals' health and safety.

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

10102.01 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.

10102.02 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.

10102.03 An ALR shall post its license to operate on its premises in a manner conspicuous to residents and visitors.

10102.04 A Licensee shall be responsible for the health and safety of the ALR's residents.

10102.05 A Licensee shall be responsible for the operation of the ALR, including the ALR's compliance with the Act, this chapter, or any other applicable District or federal laws or regulations.

10102.06 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 this chapter.

10103 RESTRICTIONS

10103.01 An ALR shall not provide services beyond the scope of its license.

10103.02 An entity may not use the term "assisted living" to advertise its services unless the entity is licensed under the Act to provide assisted living services.

10103.03 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.

10103.04 A person may not advertise the facilities or services provided by the assisted living residence in a manner that is false, misleading, or fraudulent. Facilities or services that are provided at an additional cost shall be identified in a manner that indicates such.

10103.05 The Director shall issue each license only for the premises and person or persons named as applicants in the application and the license shall not be valid for use by any other person or persons or at any place other than that designated in the

license. Any transfer as to person or place shall cause the immediate forfeiture of the license.

10103.06 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) Refusal to renew the license;
- (c) Voluntary forfeiture of the license; or
- (d) The ALR's operation is discontinued by voluntary action of the Licensee.

10104 QUALIFICATION AND ELIGIBILITY

10104.01 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 assisted living residence. 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%) of common stock in the corporation.

10104.02 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 state'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) Currently under investigation by Law Enforcement Agencies to include, but not limited to the FBI, Office of Inspector General, Department of Health, and Department of Health Care Finance.

10105 FEES

- 10105.1 As provided in Section 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 Section 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 Sections 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 Section 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

- 10106.01 To obtain and maintain a license, an applicant shall meet all of the requirements of this chapter and other applicable federal and local laws and regulations.
- 10106.02 An application for a license to operate an assisted living residence 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.
- 10106.03 An applicant for an ALR license shall pay the licensure fees set forth in Section 10105 of this chapter.
- 10106.04 In addition to the requirements in Section 302(d) of the Act (D.C. Official Code § 44-103.02(d), an application for an ALR license shall include evidence of a current, valid license issued to the assisted living administrator (“ALA”) named in the application, issued by the District of Columbia.
- 10106.05 A certificate of occupancy required by Section 302(e)(2)(A) of the Act (D.C. Official Code § 44-103.02(e)(2)(A)) shall only be required if the applicant is seeking licensure to operate an ALR with seven (7) or more resident beds.
- 10106.06 In addition to the information required under Section 302(e)(2) of the Act (D.C. Official Code § 1-4403.02(e)(2), an applicant for licensure shall provide the following information:
- (a) The policies and procedures required by Section 10110 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.
- 10106.07 The documentation required under Section 302(e)(2) of the Act (D.C. Official Code § 44-103.02(e)(2)) and Subsection 10106.06 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.

10107 LICENSURE INSPECTIONS

10107.01 A Licensee shall be responsible for the compliance of an ALR with this chapter and the Act.

10107.02 An ALR or prospective ALR that seeks to accept the Director's suggested remedy or propose its own remedy, pursuant to section 306(e) of the Act (D.C. Official Code § 44-306(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 plan of corrective action shall be submitted to the Director no later than fifteen (15) working days following the ALR's receipt of the written notice of violations.

10108 ADMISSIONS

10108.01 An ALR shall accept as residents only individuals for whom the ALR can provide appropriate services unless the ALR arranges for third party services or the resident does so with the agreement of the ALR. No ALR may have more residents, including respite care residents, than the maximum bed capacity on its license.

10108.02 An ALR may deny admission to an individual if the individualized service plan ("ISP") that is developed prior to the applicant's admission, pursuant to section 604(d) of the Act (D.C. Official Code § 44-106.04(d)), does not indicate that the applicant requires the minimal level of assisted living services provided by the ALR.

10108.03 In addition to the provisions in Section 601(d)(1) of the Act (D.C. Official Code § 44-106.01(d)(1)), no individual may be admitted who at the time of initial admission, and as established by the initial assessment is dangerous to him or herself or others or exhibits behavior that significantly and negatively impacts the lives of others, to include physical or mental abuse of others or destruction of property, where the ALR would be unable to eliminate such danger or behavior through the use of appropriate treatment modalities.

10109 RESIDENT'S RIGHTS AND QUALITY OF LIFE

10109.01 The ALR shall promote and facilitate resident self-determination through support of resident choice and all the rights specified in this chapter.

10109.02 The ALR shall support the resident in exercising his or her rights under this chapter without interference, coercion, discrimination, or retaliation.

10109.03 A resident shall have the right to view, upon demand, a copy of the ALR policies and procedures required under section 10110 of this chapter.

- 10109.04 As provided by Section 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 family members to resident group meetings in the ALR; and
 - (c) The ALR must designate an ALR employee who shall assist with the meeting, and through whom the resident group may submit its written requests to the ALR and may receive the ALR's response to those requests.
- 10109.05 An ALR shall consider the views of a resident group and respond promptly to the grievances indicated in the resident group's written requests that concern issues of resident care and life in the ALR.
- 10109.06 An ALR must be able to demonstrate their responses to written requests from a resident group. Nothing in this subsection shall be construed to imply that the ALR must implement as recommended every request of the resident group.
- 10109.07 Staff, family members, visitors, and other guests may attend resident group meetings only at the group's invitation. Nothing in this subsection shall prevent a resident's surrogate from attending a resident group meeting with, or instead of, the resident he or she represents.
- 10109.08 For the purpose of Section 506(a)(1) of the Act (D.C. Official Code § 44-105.06(a)(1)) an ALA record shall be interpreted to mean the aggregate of the following records maintained by the ALR with respect to a particular resident:
- (a) Signed resident agreements written pursuant to Section 602 of the Act (D.C. Official Code § 44-106.02, including the financial provisions required by Section 603 of the Act (D.C. Official Code § 44-106.03));
 - (b) Healthcare records;
 - (c) Individualized service plans (ISPs);
 - (d) Medication administration records; and
 - (e) Medication and treatment orders.

10110 REQUIRED POLICIES AND PROCEDURES

10110.01 The ALR shall develop and implement written policies on all of the following, which shall meet the requirements set forth by the Department:

- (a) Medication management, administration of medication, medication administration errors, and medication storage;
- (b) Developing, reviewing, and revising resident's individualized service plan;
- (c) Private duty nurses, aides, and other healthcare professionals;
- (d) Companions;
- (e) Admission, transfer, and discharge;
- (f) Complaints and grievances;
- (g) Preventing, remediating, and reporting abuse, neglect and exploitation of residents;
- (h) 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;
- (i) Alcohol, tobacco, and marijuana use;
- (j) Infection control, sanitation, and universal precautions;
- (k) 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;
- (l) Use of audio-visual monitoring systems to monitor the ALR's internal and external premises;
- (m) Resident's right to visitation;
- (n) Supervision of independent contractors performing work on the ALR's premises on behalf of the ALR or resident;
- (o) Availability of the ALA to the ALR staff;
- (p) Contacting the ALR's registered nurse; and

- (q) Determining when an ambulance or emergency medical services are contacted during a health emergency.

10110.02 An ALR shall develop and implement written procedures in connection with the policies in Subsection 10110.01, which shall meet the requirements set forth by the Director.

10111 DISCLOSURE

10111.01 An ALR shall not provide any service or item that will be at a cost additional to the aggregate of assisted living services most recently billed to, or on behalf of, the resident 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 confirming receipt of the advance disclosures required by paragraph (a) of this subsection.

10111.02 An ALR shall keep a copy of the signed confirmation required by this subsection in the resident's record.

10111.03 An ALR shall be excused from the requirements of Subsection 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 Subsection 10111.01(a) and obtain the signature confirmation described in Subsection 10111.01(b) upon concluding its assessment of the resident following the emergency.

10112 FINANCIAL AGREEMENTS

10112.01 The ALR shall report the resident's financial record to the resident on a quarterly basis. The resident's financial record shall also be made available to the resident, upon request of the resident (or surrogate), within twenty-four (24) hours or the next business day, whichever occurs last.

10112.02 Upon the discharge, eviction, or death of a resident with a personal fund deposited with the ALR, the ALR shall convey within thirty (30) days the resident's funds, and a final accounting of those funds, to the resident, or in the

case of death, the individual or probate jurisdiction administering the resident's estate in accordance with the laws of the District of Columbia.

10112.03 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.

10113 INDIVIDUALIZED SERVICE PLANS (ISPs)

10113.01 An ISP shall be developed for each resident not more than thirty (30) days prior to admission.

10113.02 In accordance with Section 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 assessments conducted by or on behalf of the ALR:

- (a) The medical, rehabilitation, and psychosocial assessment of the resident, conducted in accordance with Section 802 of the Act (D.C. Official Code § 44-108.02;
- (b) The functional assessment of the resident, conducted in accordance with Section 803 of the Act (D.C. Official Code § 44-108.03 (2016 Repl.); and
- (c) The reasonable accommodation of the resident (or surrogate) preferences.

10113.03 A "post move-in" assessment required by Section 604 of the Act (D.C. Official Code § 44-106.04) shall be conducted by or on behalf of the ALR within forty-eight (48) hours of a resident's admission.

10113.04 At each review of a resident's ISP conducted pursuant to Section 604(d) of the Act (D.C. Official Code § 44-106.04(d)), the ALR shall obtain from the resident (or surrogate) a signed statement confirming that the resident (or surrogate):

- (a) Was invited to participate in the review of the ISP; and
- (b) Did or did not participate in the review of the ISP.

10113.05 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 Section 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.

10113.06 A resident's disagreement with an ISP that is updated pursuant to Section 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 implementation of the ISP.

10114 SHARED RESPONSIBILITY AGREEMENTS (SRAs)

10114.01 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.

10114.02 An ALR shall not enter into a shared responsibility agreement with a prospective or admitted resident that:

- (a) Intentionally or unintentionally waives liability of the ALR 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 duty under law or the ISP to ensure that the resident is provided or administered all prescription and non-prescription medications and dietary supplements required to be provided or administered by the ALR;
- (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.

10114.03 An ALR may decline to enter into a shared responsibility agreement if satisfaction of the SRA will result in an adverse risk to the health, welfare, or safety of other residents or ALR staff.

10114.04 Attempts to develop a shared responsibility agreement 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 offer and reject terms of the SRA, and suggest reasonable alternatives to accommodate the course of action the resident wishes to pursue.

10114.05 In the event that a good-faith attempt to negotiate a SRA is unsuccessful, the ALR:

- (a) Shall not obstruct the resident from pursuing the course of action sought after;
- (b) Shall use the ISP to document the ALR’s consultations with the resident 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 and ALR, and why the proposed alternatives were not acceptable to the resident or ALR; and
- (4) Notify the resident that harm to self or others as a result of the persisted course of action may result in discharge.

10115 DISCHARGE AND TRANSFER

10115.01 The ALA shall determine if the care needs of a resident exceed the resources that can be marshalled by the ALR or third-party services to support the resident safely, making transfer to another facility necessary.

10115.02 Prior to the voluntary or involuntary transfer of a resident to another facility, or 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.

10115.03 An ALR shall not transmit the information prescribed in Subsection 10115.02 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 Subsection 10115.02 directly to the resident (or surrogate) prior to transfer or discharge.

10115.04 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;
- (c) Engaging in sexual harassment, exploitation, or other degrading conduct to the detriment of another residents' dignity, in violation of the victim's rights under 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) The resident does not require any assisted living services provided by the ALR, as indicated by the resident's most recent ISP review conducted pursuant to Section 604(d) of the Act (D.C. Official Code § 44-106.04(d));
- (f) Discharge is essential to meet the ALR's reasonable administrative needs and no practicable alternative is available;
- (g) The ALR is ceasing to operate;
- (h) The licensed capacity of the ALR is being reduced by the District; or
- (i) The license to operate the ALR is suspended or revoked.

10115.05 An ALR shall conform to the notices and procedures for involuntary discharge, transfer, or relocation provided by subchapter 3 of Chapter 10 of Title 44 of the District of Columbia Official Code (D.C. Official Code §§ 44-1003.01 – 1003.13).

10115.06 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 discharge 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.

10115.07

The involuntary discharge of a resident on one or more grounds enumerated in Subsection 10115.04 shall be canceled, and the resident shall be entitled to remain in the ALR, upon rectification of the ground or grounds for discharge. Rectification may be, if applicable, the payment of all monies owed at any time

prior to discharge, or negotiation of a new ISP that meets the care needs of the resident.

- 10115.08 Within thirty (30) days of the date of discharge, the ALR shall:
- (a) Give each resident or their surrogate:
 - (1) A final statement of account; and
 - (2) Any refunds due; and
 - (b) Return any money, property, or valuables held in trust or custody by the ALR.
- 10115.09 An ALR may temporarily transfer a resident to another living unit within the ALR on an involuntary basis if:
- (a) The transfer is necessary to protect the resident from an imminent and physical harm present in the living unit;
 - (b) The imminent and physical harm is due to a curable condition of the living unit; and
 - (c) The transfer lasts no longer than necessary to cure the threat to physical harm posed by the condition of the living unit and return the living unit to its habitable condition.

10116 STAFFING STANDARDS

- 10116.01 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, and the ALR’s physical premises.
- 10116.02 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 10 days after the designation is made or the designee has begun employment as the ALA, whichever occurs first.
- 10116.03 In addition to the staffing standards for ALAs set forth by Section 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)), as amended by the Omnibus Health Regulation Amendment Act of 2014, effective March 26, 2014 (D.C. Law 20-96), and all requirements to practice assisted living administration set forth by the Director by rulemaking.

- 10116.04 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, a 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 Section 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 Subsection 10116.06.
- 10116.05 The Licensee or ALA may, during an ALA's leave of absence, designate a staff member who meets the requirements in paragraph (a) of Subsection 10116.04 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.
- 10116.06 An ALA shall not be subject to Subsection 10116.04(b) during a leave of absence described in Subsection 10116.05.
- 10116.07 An Acting Administrator who is designated pursuant to Subsection 10116.05 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.
- 10116.08 An Acting Administrator who is designated pursuant to Subsection 10116.05 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 Subsection 10116.04.
- 10116.09 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 (6th) 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 Subsection 10116.04(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 Section 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 remain visible at all times the employee is on the ALR premises, and shall conspicuously display the employee's full name and job title.
- 10117 ASSISTED LIVING ADMINISTRATORS (ALAs)**
- 10117.01 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 Subsection 10116.05 of this chapter.
- 10117.02 The ALA shall ensure that the ALR is in compliance with the Act and this chapter.
- 10117.03 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, this chapter, or the Act.

10118 PRIVATE DUTY HEALTHCARE PROFESSIONALS

10118.01 Pursuant to Section 701(a) of the Act (D.C. Official Code § 44-107.01(a)), the ALA shall be responsible for all personnel within the ALR, including private duty healthcare professionals that provide healthcare-related services on the ALR's premises.

10118.02 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; and

- (c) 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.
- 10118.03 An ALR shall have a written agreement with each private duty healthcare professional described in this section, or the agency that employs him or her, if applicable, describing his or her obligations to report to the ALR:
- (a) Medication errors and adverse drug reactions; and
- (b) Abuse, neglect, exploitation, or unusual incidents, such as changes in the resident's condition.
- 10118.04 Pursuant to Section 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.
- 10118.05 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**
- 10119.01 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.
- 10119.02 A companion may provide such services as cooking, housekeeping, errands, and providing social interaction with a resident.
- 10119.03 An ALR shall require that, prior to performing companion services for a resident, a companion 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.*; and
- (b) A healthcare practitioner's written statement as to whether the companion bears any communicable diseases, including communicable tuberculosis.
- 10119.04 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, is mentally or physically incapable of performing his or her duties, or otherwise presents a risk to the health and safety of the residents.

10119.05 Pursuant to Section 701(a) of the Act (D.C. Official Code § 44-107.01(a)), the ALA shall be responsible for all personnel within the ALR, including companions providing companion services on the ALR's premises.

10119.06 Pursuant to Section 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

10120.01 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.

10120.02 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

10121.01 In addition to the consultations required by Section 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

10122.01 The on-site medication review arranged to occur every forty-five (45) days, pursuant to Section 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

10123.01 Medication that is entrusted to the ALR for storage shall be stored in accordance with the requirements of Section 904 of the Act (D.C. Official Code § 44-109.04).

10123.02 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 Section 904(e)(8) of the Act (D.C. Official Code § 44-109.04(e)(8)), which shall be retained in the resident's medical 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.

10123.03 In the event of voluntary or involuntary discharge, or upon a resident's death, the ALR shall notify and attempt to return all medications to the resident (or surrogate) or resident's caregiver within thirty (30) days of the resident's discharge or death, unless return of the medication is prohibited by federal or other District law. If the resident's medications remain unclaimed for more than thirty (30) days after the resident or surrogate have been notified, the medication shall be considered abandoned and disposed of in accordance with the Section 904 of the Act (D.C. Official Code § 44-109.04) and applicable District law.

10124 MEDICATION ADMINISTRATION

10124.01 A resident shall be permitted to self-administer his or her medications, provided that the resident has been deemed capable of self-administering his or her own medication without assistance 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.

10124.02 The initial assessment and periodic medication review performed pursuant to Sections 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 if 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, if 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 if the resident needs assistance to properly carry out one or more of the tasks enumerated in paragraph (b) of this subsection.

10124.03 A resident who cannot, or chooses not to, self-administer medication without full or partial assistance may arrange with a third-party for a licensed practical nurse, registered nurse, advanced practice registered nurse, physician, physician assistant, trained medication employee ("TME"), 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 administration 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 Section 10118 of this chapter.

- 10124.04 An ALR may employ or arrange for a licensed practical nurse, registered nurse, advanced practice registered nurse, physician, physician assistant, TME, or certified medication aide to administer, or assist in the administration of, medication to a resident, provided that:
- (a) The healthcare professional holds the requisite certificate, registration, or license to practice issued by the District;
 - (b) 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;
 - (c) The ALR discloses, orally and in writing, any fees, rates, or charges associated with providing assistance with or administration of medication that are additional to the resident's existing bill, in accordance with Section 10111 of this chapter;
 - (d) Prior to the provision of the medication administration or assistance, the resident 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
 - (e) 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 medication aide.
- 10124.05 An ALR shall require that administration or assistance in the administration of medication to a resident by a healthcare professional pursuant to Subsections 10124.03 and 10124.04 be in accordance with the prevailing standard of acceptable medication administration rights in the healthcare professional's field.
- 10124.06 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 medical records.
- 10124.07 An ALR shall ensure that all employees and all licensed practical nurses, registered nurses, advanced practice registered nurses, physicians, physician

assistants, TMEs, 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.

10124.08 An ALR shall require all medication errors and adverse drug reactions be documented in the resident's record.

10124.09 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 this chapter or the Act.

10124.10 An ALR shall submit to the Director a copy of any report of an adverse drug reaction required by Subsection 10124.09 within thirty (30) days of the discovery of the adverse drug reaction, in addition to the requirements of Subsection 10124.09 and the notification requirements of Subsection 10125.02.

10125 REPORTING ABUSE, NEGLECT, EXPLOITATION, AND UNUSUAL INCIDENTS

10125.01 The results of an ALR's investigation into allegations of abuse, neglect, or exploitation of a resident pursuant to Section 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.

10125.02 In addition to the requirements to report abuse, neglect, and exploitation of a resident provided in Section 509 of the Act (D.C. Official Code § 44-105.09), each 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 immediately, and shall be followed up by written notification to the same within twenty-four (24) hours or the next business day.

10125.03 For purposes of Subsection 10125.02, an "unusual incident that substantially affects a resident" shall mean any occurrence related to the operation of an assisted living residence or to the conduct of the ALR's personnel 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 injury to a resident, death, theft of a resident's property or funds, or any occurrence requiring or resulting in intervention from law enforcement or emergency response personnel.

10126 INSPECTIONS

10126.01 In addition to the inspections authorized by the Act, the Director may inspect an ALR at the Director's discretion to ensure compliance with this chapter.

10126.02 Inspections of an ALR for purposes of initial licensure or compliance with this chapter after license renewal shall be conducted by the Director following the procedures set forth in D.C. Official Code § 44-505 and the requirements of the Act and this chapter.

10127 SANCTIONS

10127.01 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.

10127.02 On determining that a Licensee has violated this chapter, the Director may impose, or cause to be imposed, the sanctions set forth in Section 401 of the Act (D.C. Official Code § 44-104.01).

10127.03 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.

10127.04 Appeals under this section may be taken pursuant to Section 1201 of the Act (D.C. Official Code § 44-1012.01).

10128 CIVIL PENALTIES

10128.01 The Director may impose, or cause to be imposed, one or more of the civil penalties authorized under section 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.

10128.02 Notwithstanding any other provision of law, penalties authorized under Subsection 10128.01 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.

10128.03 If, during a follow-up inspection, the Director determines that violations of this chapter which are within the control of the facility and were cited in an immediately prior inspection have not been corrected or have recurred, the Director may impose the penalties authorized under Section 402 of the Act (D.C. Official Code § 44-104.02).

10128.04 Appeals under this section may be taken as provided by Section 402(d) of the Act (D.C. Official Code § 44-104.02(d)).

10129 CRIMINAL PENALTIES

10129.01 The criminal penalties authorized by Section 403 of the Act (D.C. Official Code § 44-104.03) of the Act shall apply to an ALR.

10130 REFERRALS TO REGULATORY ENTITIES

10130.01 The Director may refer an ALA suspected of conduct prohibited by the Act, this chapter, or other District or federal law to the District of Columbia Board of Long-Term Care Administration for review of the suspected conduct.

10130.02 The Director may refer any healthcare professional who practices his or her healthcare profession on the premises of an ALR and who suspected of conduct prohibited by the Act, this chapter, or other District or federal law to the appropriate regulatory entity with jurisdiction over the healthcare professional for review of the suspected conduct.

10130.03 Nothing in this section shall prohibit the Director from referring any individual suspected of conduct prohibited by District or federal law or regulation to the appropriate District or federal regulatory entity.

10131–10198 [RESERVED]

10199 DEFINITIONS

10199.01 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 subsection 10199.02.

10199.02 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.

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

“ALR” – means “Assisted Living Residence,” as defined by the Act (at 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 or volunteers to provide a resident with non-healthcare related services such as cooking, housekeeping, errands, and social interaction on the ALR’s premises.

Department – means the District of Columbia Department of Health.

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.

All persons desiring to comment on the subject matter of this proposed rulemaking action shall submit written comments, not later than thirty (30) days after the date of publication of this notice in the *D.C. Register*, to Phillip Husband, General Counsel, Department of Health, Office of the General Counsel, 899 North Capitol Street, N.E., 6th Floor, Washington, D.C. 20002. Copies of the proposed rules may be obtained between the hours of 8:00 a.m. and 4:00 p.m. at the address listed above, or by contacting Angli Black, Paralegal Specialist, at Angli.Black@dc.gov, (202) 442-5977.