



Department of Health

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DAL: DACF-22-28-A1
Model Residency Agreement Checklist

Dear Adult Care Facility Administrators and Operators:

On June 10, 2022, the Department of Health (“Department”) issued Dear Administrator Letter (DAL) #22-28 announcing the model Residency Agreement and addenda for assisted living residences (ALRs). As of the date of this DAL, existing ALRs and applicants for new ALR licensure may also propose a substitute Residency Agreement that complies with the enclosed Adult Home or Enriched Housing Program Assisted Living Residence Residency Agreement Checklist as applicable to the ALR’s base license. This Checklist is required only if an operator is not using one of the methods outlined in DAL #22-28. Further, operators that desire to modify their existing, previously approved Residency Agreements may do so by submitting in Microsoft Word format both clean and redlined copies identifying the proposed changes to acfra@health.ny.gov. A limited review of the redlined changes is anticipated; however, after an initial review, the Department may require submission of a completed Checklist if the requested changes are extensive.

The enclosed Checklist includes each required provision of the Residency Agreement, some of which are labeled as “mandated language.” Where the provision is described as a required provision, the facility’s proposed Residency Agreement must include a provision that covers that topic and is compliant with the applicable regulatory citations. Guidance is included for the required provisions in the Checklist. Where the provision indicates that it is mandated language, the facility’s proposed agreement must include the exact language from the Checklist without substitution, making edits only when needed to reflect the bolded and underlined language in the Checklist. Finally, if the facility’s proposed Residency Agreement contains provisions in addition to the required provisions, those provisions must be listed and described in the last rows of the Checklist and may be subject to legal review by the Department. An example of an additional provision to reflect a second occupant rate is shown for illustrative purposes in the enclosed Checklist.

The second column of the enclosed Checklist includes regulatory references. Acceptable substitutes must be compliant with all applicable regulations.

In establishing this additional option for ALRs to have a compliant Residency Agreement, the Department has responded to operator’s input seeking more flexibility in their Residency Agreements. Adherence to the guidance in the Checklist and submission of the completed Checklist with the proposed Residency Agreement will help streamline the review process and ensure that key agreement provisions are uniform across all ALRs.

For a substitute Residency Agreement to be considered, the Operator must submit to acfra@health.ny.gov:

- a copy of the proposed substitute, including all exhibits and addenda, in Microsoft Word format;
- a copy of the applicable Checklist (choose Adult Home or Enriched Housing Program, according to the facility's base licensure), completed to include:
 - The page number for each provision;
 - The section and paragraph number for each provision; and
 - Information on any additional provisions.

The Department thanks the Empire State Association of Assisted Living for its assistance in developing this useful, user-friendly tool. If you have any questions, please write to acfra@health.ny.gov.

Sincerely,

Heidi L. Hayes, Acting Director
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and Assisted Living Surveillance

Enclosures

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