

SPECIAL NEEDS ASSISTED LIVING PLAN OVERVIEW AND REQUIREMENTS

OVERVIEW

As defined in statute (Chapter 2 of the Laws of 2004), an assisted living residence (ALR), means an entity which provides or arranges for housing, on-site monitoring, and personal care services and/or home care services (either directly or indirectly), in a home-like setting to five or more adult residents unrelated to the assisted living operator. An ALR must also provide daily food service, twenty-four hour on-site monitoring, case management services, and the development of an individualized service plan for each resident. In order to operate as an ALR, an operator must also be certified as an adult home or enriched housing program.

No adult home, enriched housing program, or ALR may advertise or market itself as providing specialized services to individuals with special needs unless and until the residence has been licensed as an ALR and issued a special needs assisted living certificate. This approval will be based in part on the submission of a special needs plan which sets forth how the special needs of such residents will be safely and appropriately met at the residence. The plan must include, but need not be limited to, a written description of specialized services, staffing levels, staff education and training, work experience, professional affiliations or special considerations relevant to serving persons with special needs, as well as any environmental modifications that have been made or will be made to protect the health, safety, and welfare of such persons in residence. The approval of any special needs program will also be based on adherence to any standards developed by the Department to ensure adequate staffing and training necessary to safely meet the needs of the specialized population proposed to be served.

Individuals with such special needs may include a number of generally-accepted distinct subsets of similar cognitive, behavioral, medical, functional, characteristics or care needs.

In addition to the authorizing statute regarding ALRs with a special needs certificate, Regulation 485.6 (f) (1) (iv) is also applicable and requires that an application to operate an adult care facility must include "a description of provision for special services if mentally disabled, physically handicapped persons or persons with other special needs will be admitted to or are in residence in the facility". This plan shall include specifications of special activities and operating practices, adaptation of supervision, personal care and other services, and evidence of cooperation and coordination with other persons and agencies providing services to such residents.

An ALR-Special Needs program must meet the regulatory requirements applicable to its adult care facility certification type (adult home or enriched housing program), as well as additional provisions contained within the authorizing statute, including but not limited to the following:

1. The operator must be in good standing with the Department, as defined in the statute
2. Appropriate pre-admission evaluations
3. Appropriate residency agreements and disclosures
4. Appropriate individual service plans
5. The protection of residents' rights as specified in the statute
6. The protection of resident funds as applicable

In general, in the event of conflicting requirements, the provisions of the authorizing statute or related regulation (s) will supersede any existing regulation, to the extent of such conflict.

The operator of an ALR-Special Needs program who wishes to provide aging in place services, or to retain residents in need of Enhanced ALR services must be approved for both Special Needs and Enhanced services.

REQUIREMENTS

The purpose of this document is to provide guidance to operators and prospective operators in developing proposals to serve persons with dementia in special needs assisted living residences (SNALRs).

The Department recognizes that there is increasing interest among operators and applicants in providing services to persons with dementia, and acknowledges the ability of certain operators to serve some segments of this population.

No adult home, enriched housing program, or ALR may advertise the operation of a dementia unit unless such program has been approved by the Department and the residence issued a special needs assisted living residence certificate. Such authorization will only be issued after receipt and approval of a complete program proposal, as well as any necessary site visits to verify compliance. Such approval will be based on the demonstrated ability of the applicant to provide a consistently high level of care and services to residents.

If currently certified beds are to be used for a dementia program, the operator must submit a complete program proposal as well as a summary of the impact the program will have on other residents and existing programs.

If the dementia program is being proposed as part of a new application for certification, or as a capacity increase in a certified facility, the required dementia program proposal is in addition to all other required application material.

Entities that have received previous Department approvals for dementia units are only required to submit information on changes they will make in their programs to meet these revised requirements.

Any proposal for the operation of a dementia program must specify the number of beds proposed for the program and address, at a minimum, the following:

1. **Physical Plant/Environmental**: Describe the site, layout, design, and equipment/furnishings and features, both shared and individual, specifically planned with a dementia population in mind. A floor plan showing room usage also must be submitted.
2. **Resident Profile**: Describe the resident population to be served, in terms of the degree of dementia, need for assistance with ADLs, continence, ambulation, behavioral issues, wandering, etc., and identify those resident characteristics that would preclude admission or retention. Identify the pre-admission screening instrument and process to be used, as well as a post-admission process for periodically screening residents to ensure they remain appropriate for the program. Submit copies of screening/assessment forms to be used.
3. **Staffing**: Submit a proposed weekly staffing schedule for operation at full capacity, which must be developed with consideration to the resident profile and projected resident needs, as well as any other relevant factors. Include any special qualifications to be required of any staff, including the

dementia program director, activities, case management, nursing staff, etc. Include a proposed staff orientation and training program designed with the resident population in mind.

4. Resident Services: Describe in detail the proposed case management, activities, food service, and medication assistance programs designed for persons with dementia, with copies of all forms proposed. Also describe how the individual residents have access to nursing services, as needed.
5. Emergency Evacuation/Disaster Plan: Submit copies of both, after modification as applicable, for a program serving persons with dementia.
6. Other Information: Submit any other information, program material, forms or criteria to be used that are being proposed or that will be used, in order that the full scope of the dementia program being proposed is identified and understood.

The following section contains (a) a brief statement of the regulatory standard that applies to the topic area and, (b) guidance for operators and prospective operators who are developing proposals for operation of services to persons with dementia in an ALR. Current regulatory requirements for each particular facility type remain in effect.

Admission Standards (487.4, 488.4)

STANDARD: An operator shall admit, retain and care for only those individuals whose needs can be met by the facility program, and who do not require services beyond those the operator is permitted by law and regulation to provide or arrange for. Admission/retention decisions must be based upon comprehensive pre-admission, as well as ongoing, observation, screening and assessment.

In order to meet regulatory requirements describing the admissions process, the operator should complete, prior to admission, a comprehensive social, cultural, occupational, medical, mental health, and behavioral history from the resident, the resident's family and/or representative, the resident's physician, and other available sources of such information. These histories should be sufficiently detailed to ensure the resident's appropriateness upon admission and to allow for the development of an initial individualized service plan. As part of this pre-admission process, wherever possible and advisable the resident should be interviewed and observed in the facility, or at least at their current living arrangement.

Given the behavioral and cognitive characteristics typically associated with dementia, and keeping in mind the safety of all residents and the orderly operation of the facility, the operator should provide a comprehensive plan to 1) assess the applicant/resident; and 2) identify interventions for behavioral issues, especially for residents who, without such interventions, would be inappropriate for admission/retention, because they:

- exhibit unmanageable assaultive or aggressive behavior;
- are chronically intrusive, disruptive, or exhibit other behavioral characteristics to the extent that they interfere with the orderly operation of the facility;
- chronically attempt to elope to the extent that they present a danger to themselves or interfere with the orderly operation of the facility;
- are chronically uncooperative or resistive to the provision of personal care services, including any necessary toileting program and assistance with medications, as well as other such services, to the extent that such care cannot be maintained and managed;

This plan should also address thresholds that would require termination of the admission agreement, using Departmental regulations 18NYCRR 487.5 (f) and 488.5 (e). These thresholds should address chronically disruptive or aggressive behavior that continues despite ongoing interventions.

In order to ensure the continued appropriateness of residents, the operator should conduct, at least every 6 months, a comprehensive re-assessment of the resident, in order to complete the required individualized service plan. This should include, as warranted, medical, mental health, behavioral and case management re-assessments and modifications to the care/service plans. It is recommended that this re-assessment also be completed whenever there is a significant change in the resident's condition. These assessments and service plans should detail the resident's supervision, personal care, case management, recreational, dietary and medical needs, and should incorporate input from the resident, all facility staff, outside providers, and where possible, the resident's family or representatives.

Where advisable, the resident's family and/or representatives may be designated to receive those documents normally provided to the resident at or prior to the admission interview, provided the resident is also offered a copy.

Resident Rights (487.5, 488.5)

STANDARD: An operator must afford each resident the rights and protections set forth in these sections, as well as in the authorizing statute, with respect to a statement of resident rights, resident organizations, grievances and recommendations, admission agreements, and protections concerning transfer and discharge.

Resident/Family Organizations 487.5(b)

In addition to the resident organization, residents' family and representatives should be encouraged and assisted to organize and maintain committees, councils or such other organizations as they may choose. The operator should be facilitative and responsive to the goals and purpose of such organizations, which should meet as frequently as desired by its members and include input, suggestions or concerns regarding the operation of the facility. Resident organizations are not required by the enriched housing regulations, but should be considered as part of the dementia unit program to ensure that the operator is aware of residents' needs and preferences.

Grievances and Recommendations 487.5(c), 488.5(b)

The required grievance procedure should be developed to include family members and representatives as well as residents.

Admission Agreements 487.5(d), 488.5 (c)

Given the nature of the population, residents may not have contract capacity or may lose contract capacity during their stay at the facility. An operator can not require a durable Power of Attorney or Health Care Proxy for any resident. However, the Department highly recommends the execution of such advanced directives by such residents who have contract capacity.

A resident representative, designated by the resident, may sign the admission agreement and subsequent addendums on behalf of the resident. In such cases the resident's copy of the admission agreement may be provided to the representative, provided that a copy is offered to the resident.

The admission agreement or an addendum of the admission agreement should outline the special features of the dementia program.

Termination of Admission Agreements 487.5(f), 488.5(e)

Any voluntary and mutual termination of the admission agreement must be reached in agreement with those person(s) signing the agreement on behalf of the resident. Any involuntary termination must comply with all applicable requirements.

Funds and Valuables (487.6, 488.6)

STANDARD: Where there is an individual designated for the resident as agent under a power of attorney, or a resident representative designated by the resident, that person, on behalf of the resident and upon written request to the operator, may be designated by the resident to be provided all required receipts, to provide the required monthly acknowledgement of receipt of personal allowance, to execute the required Statement of Offering, to have the opportunity upon request to examine the resident's personal allowance account records, to receive the required quarterly statements for personal allowance accounts, to authorize the holding of other resident funds in custody, and to authorize the facility to hold resident property or items of value.

In consultation with facility staff and, where applicable, other family members, this resident representative may authorize in writing use of the Personal Needs Allowance for the resident, as provided for in the admission agreement or elsewhere. Receipts or statements for such charges should be sent to this person on a quarterly basis.

Services (487.7, 488.7)

STANDARD: The operator shall be responsible for the provision or arrangement of room and board, and shall provide resident services, which shall include, at a minimum, housekeeping, supervision, personal care, case management, activities and food service.

In order to develop and carry out each individualized service plan, the operator must ensure there is a comprehensive and coordinated program to regularly observe and assess the need for necessary services to each resident, using all available sources of information, and to provide or arrange for such services in a professional, respectful, competent, and timely manner. Continuous efforts must be made to ensure that facility staff, including direct care and support staff, as well as residents' family members/representatives are considered, included, and consulted as important members of such an assessment and treatment team.

In order to ensure the provision of appropriate and quality services to residents, as well as support to family members/representatives and facility staff, there must be initial and on-going efforts to establish community-based individual and agency linkages and contacts, specific to serving a resident population with dementia or cognitive deficit. Information and referral services shall then be available and provided to residents, family members, and staff.

Supervision

Supervision means provision of monitoring and timely assistance to residents to ensure their health, safety and welfare, both with regard to resident daily activities and the ability to respond to urgent or emergency needs through the presence of twenty-four hours a day onsite staffing.

Since residents must be allowed to wander safely throughout the program's common areas, sufficient supervision services should be provided to maintain knowledge of the general whereabouts of each resident.

Given the nature of the resident population, in the event a resident is absent from the facility and the resident's whereabouts are unknown, immediate efforts should be taken to locate the resident. Immediate notification should be made to the appropriate law enforcement agency, and, during normal business hours, the Department's regional office. Notification should also be made immediately to the resident's family and representative unless a different time frame has been agreed upon with those individuals. Since this is behavior that is a danger to the resident, an Incident Report must be completed and sent to the Department.

When a resident exhibits disruptive or aggressive behavior, such as elopement or assault of another resident, an incident report must be completed, as required by 487.7 (d) (10) and 488.7 (b) (10). Any required Incident Report must fully detail staff intervention techniques and/or referrals to prevent reoccurrence. Incident Reports should be reviewed with and incorporated into the individualized service plan with the resident's physician(s), other care providers, family members and representatives, as applicable and appropriate. Residents' family members and representatives must be afforded an opportunity to provide their version of events on each Incident Report.

Personal Care

Personal care means assistance with activities of daily living, such as bathing, dressing, grooming, ambulating, eating, toileting or similar tasks. Each resident shall be provided such personal care as is necessary to enable the resident to maintain good personal hygiene, carry out activities of daily living, to maintain good health and to participate in the ongoing activities of the facility.

Development of an individualized service plan for each resident should commence prior to admission and be completed soon after admission. Such a plan should be based on initial and on-going assessment, evaluation, and observation, and should detail the resident's supervision, personal care, case management, recreational, dietary, and medical, including medication needs, as well as staff and approved community resource services necessary to meet those needs.

Each resident's individualized service plan should be reviewed and updated whenever there is a significant change in the resident's condition or needs, and new plans should be developed and completed every 6 months. Individualized service plans should incorporate input from all facility staff, outside service providers or assessors, and where possible, the resident's family and/or representative. Changes in the plan should be communicated to all staff on all shifts. Individualized service plans and case management records should identify those residents who are periodically resistant to the provision of personal care services by staff.

Medication Assistance

Since residents may be unable to identify and verbalize their need for a medication which has been prescribed on a "PRN" (as necessary) basis, any such orders received from the resident's physician should be reviewed with the physician in terms of the resident's ability to identify the need for the medication. The use of such prescription PRN medications in dementia units should be limited to only those cases where the physician has determined after such review with facility staff that there is no alternative to the order.

The physician's order for all PRN medications, prescription and over the counter (OTC), must identify those resident behaviors or symptoms that warrant consideration of need for the medication(s).

A resident may not be assisted with any PRN medication, prescription or OTC, without observation by or consultation with appropriate licensed medical providers (see ACF Directive No. 3-96, issued December 16, 1996 for further details). The record of assistance with such medications should include the behaviors/symptoms observed as well as the nature of such observation by/consultation with licensed staff.

Case Management

Case management services shall be provided to each resident to support the resident in maintaining independence of function and personal choice to the fullest extent possible. The operator shall establish a system of record keeping which documents the case management needs of each resident and records the case management activities undertaken to meet those needs.

In order to ensure the continued appropriateness of residents, the operator must conduct, at least annually, a comprehensive re-assessment of the resident and modify the ISP as warranted. The ISP must be reviewed, and revised if necessary, at least every six months or to respond to a significant change in the resident's condition. These assessments and service plans should detail the resident's supervision, personal care, case management, recreational, dietary and medical needs, and should incorporate input from the resident, all facility staff, outside providers, and where possible, the resident's family or representative.

Case management services, in order to assist the resident to maintain family ties, should include assisting residents' family members and representatives to:

- Adjust to and remain involved with the resident's initial placement and continued residence in the facility.
- Establish, operate, and maintain individual and collective methods or recommendations for change or improvement in facility operations and programs, regarding both individual and congregate resident-related issues.
- Remain active in the care planning process for the resident.
- Remain informed in a timely manner about significant issues regarding the resident's care and supervision needs and changes made to the care plan.

When disruptive or aggressive behaviors are exhibited, the operator must assess the resident, determine precipitating factors and form a plan to include successful interventions and to promote the highest level of resident function.

Activities

The operator shall maintain an organized and diversified program of individual and group activities which will enable each resident to engage in cultural, spiritual, diversional, physical, political, social and intellectual activities within the facility and the community, in order to sustain and promote an individuals' potential and a sense of usefulness to self and others.

Given the needs of the population, it is recommended that there be frequent individual and group activities geared toward individuals with dementia which are meaningful to the resident. This programming should be based on initial and on-going, historical and current, interests, assessments, and observations.

There should be sufficient trained staff to ensure that activities programs are available to individuals and groups as needed throughout the day, evening and night.

Weather permitting, it is recommended that residents have the opportunity and be encouraged to be outdoors, each day, with appropriate and sufficient supervision.

Food Service (487.8, 488.8)

STANDARD: The operator shall provide meals which are balanced, nutritious and adequate in amount and content to meet the daily dietary needs of residents, and shall meet regulatory standards regarding menu planning, food purchasing, storage, preparation and service.

The residents should be regularly monitored for changes in dietary intake, hydration intake and nutritional balance to assure adequate nutrition. Food should also be offered outside of the usual meal times in a manner acceptable to the resident and keeping in mind the resident's functional abilities, preferences and needs. In order to ensure optimal intake at mealtimes, and unless contrary to physician's orders, prescribed nutritional supplements should be provided between, and not at the same time as, scheduled meals. The resident's care plan should reflect these needs and preferences.

Personnel (487.9, 488.9)

STANDARD: The operator shall provide staff sufficient in number and qualified by training and experience to render, at a minimum, those services mandated by statute or regulation. The operator shall conduct an initial program of orientation and in-service training for employees and volunteers, as well as ongoing in-service training.

The operator should provide staff training in characteristics and needs of persons with dementia, including behavioral symptoms, and mental and emotional changes. The training should include methods for meeting the residents' needs on an individual basis.

Staff should be observant for and report interventions that curb disruptive behavior and incidents preceding problem behaviors.

The operator shall provide an appropriate staff to resident ratio to supply the amount of supervision and assistance needed by the resident population. The Department may require additional staff based on resident needs, physical layout of the facility and the location of the facility. Efforts should be made to provide consistency for the residents when staffing assignments are made.

Administration

In a facility serving other residents in addition to those in the dementia unit, and based on the size of the unit, there should be a full or part-time staff person designated to be in charge of the dementia unit, other than the administrator. The person in charge should have prior demonstrated ability and/or experience in providing services to individuals with dementia, and must report directly to the administrator.

Continuing education credits related to provision of services to residents with dementia, and attended by the person designated as in charge of the dementia unit, or the approved case manager or activities director, will be accepted for a maximum of ten of the required adult home administrator hours over every two-year period.

Case Management

The dementia unit should have the services of a qualified case manager for a minimum of one half hour per resident per week, with additional hours if warranted by the needs of residents.

Activities

The dementia unit should have the services of a qualified activities director for a minimum of one half hour per resident per week, with additional hours if warranted by the needs of residents. There must be activities planned and available for each resident for a minimum of 10 hours per week.

Supervision/ Personal Care/ Housekeeping/ Food Service

The dementia unit should be staffed, on all shifts, by persons appropriately trained and capable of meeting the needs of the residents. This should include licensed (RN or LPN) personnel on staff on both the day and evening shifts, with licensed staff available for consultation at all other times.

Utilization of a “universal worker” concept to provide a full range of direct services to residents is generally recommended. Such staff must be on-duty and available to provide such necessary services at all times.

Such direct care staffing should be provided in a ratio of one staff for every 6-8 residents, or part thereof during the day and evening, and one staff for every 12-15 residents or part thereof, at night, unless the operator has demonstrated to the Department’s satisfaction that residents’ needs can be met with an alternative staffing pattern, or unless the Department determines that, based on the needs of residents or other factors, additional staff are required in order to meet residents’ needs.

Health Consultant

When required by the Department, persons utilized by the operator to provide health consultations should have demonstrated experience in the provision of services to individuals with dementia. Prior Department approval is required for use of such required consultants.

Records and Reports (487.10, 488.10)

STANDARD: The operator shall collect and maintain such information, records or reports as determined by the Department as necessary.

The operator shall maintain records to document compliance with the approved dementia unit proposal.

Environmental Standards (487.11, 488.11)

STANDARD: In order to provide a safe, comfortable environment for residents, the operator shall maintain the facility in a good state of repair and sanitation, and in conformance with applicable state and local laws, regulations and ordinances. The operator shall provide, or ensure there are, furnishings and equipment which do not endanger resident health, safety and well being, and which support daily activities and are appropriate to function. The environment should be designed to encourage and support independence while promoting safety.

The operator should provide a “protective” environment, i.e. sprinkled or noncombustible/protected construction. Safety and security should be provided both within the facility (such as delayed egress system, window stops, etc.) and outside the facility (such as enclosed courtyards). Fully locked units are prohibited. Emergency call systems, handrails, and direct connection of the fire alarm system will be required in all units, even those units in Enriched Housing.

Dementia units should be designed and operated as self-contained or “household” sub-units. If operated as a portion of a residence, the unit must provide self-contained leisure and dining room space, unless it can be

demonstrated to the satisfaction of the Department that use of shared common areas is appropriate to the needs of all residents. For operational efficiency, support services and spaces may be located within adjacent programs or areas. The unit should be designed so that visitors or staff do not have to regularly pass through it to reach other areas of the residence.

The unit should provide regular opportunities for residents to be outdoors, with sufficient supervision by staff at all times. If possible, a secure outdoor space and walkways should be provided that will allow residents to ambulate, with or without assistive devices such as wheelchairs or walkers. Such outdoor space shall have fencing or barriers that prevent injury and elopement. Fencing shall be designed so as not to be easily climbable and shall be no less than 72 inches high.

All windows shall be equipped with mechanisms to limit window openings to a maximum of 4" and in such a way that meets emergency egress requirements to prevent elopement and prevent accidental falls.

If the facility is of Type 5 construction, areas designated for the care of persons with Alzheimer's disease, dementia or memory impairment must be restricted to the grade level and one level above grade level if the building structure exceeds one story in height.

Dementia units should provide an appropriate delayed-egress system on all exit doors to the outside, or roof areas, as well as leading to other areas of the facility, unless prior approval of an alternative method for the prevention of resident elopement from the unit has been obtained from the Department. The delayed egress system must comply with the following:

- A building occupant shall not be required to pass through more than one door equipped with a delayed egress lock before entering an exit.
- The doors must unlock upon actuation of the automatic sprinkler system or automatic fire detection system.
- The door must unlock upon loss of power controlling the lock or lock mechanism.
- The door locks must have the capability of being unlocked by a signal from the fire command center.
- The initiation of an irreversible process must release the latch in not more than 15 seconds when a force of not more than 15 pounds (67 N) is applied for 1 second to release the device. Initiation of the irreversible process shall activate an audible signal in the vicinity of the door. Once the door lock has been released by the application of force to the releasing device, relocking shall be by manual means only.
- Where approved by both the local codes officer and the Department, a delay of not more than 30 seconds is permitted.
- A sign must be provided on the door located above and within 12 inches (305mm) of the release device reading: PUSH UNTIL ALARM SOUNDS. DOOR CAN BE OPENED IN 15 [30] SECONDS.
- Emergency lighting must be provided at the door.

The operator should provide a “supportive” environment for residents, staff and visitors, i.e. self-contained units of limited size, quiet areas, appropriate wander paths, and limited access to potentially harmful or disruptive equipment (such as fire alarms, elevators, fire extinguishers, cooking equipment).

In order to best ensure the safety of residents, staff and visitors, the operator should carefully consider whether or not to permit any smoking within the program or facility. If residents are allowed to smoke, appropriate supervision must be provided.

The operator should have and maintain control over the building in which the program is located. If the operator does not have such control, there must be a written agreement between the applicable parties to ensure that regulatory requirements can and will be met.

Disaster Plan (487.12, 488.12)

STANDARD: The operator must have a written plan approved by the Department, which details the procedures to be followed for the proper protection of residents and staff in the event of an actual or threatened emergency or disaster, which interrupts normal service. All staff shall be trained to execute the facility disaster and emergency plan.

Plans will be designed appropriately for residents with dementia characteristics, and such plans may need to rely more heavily on staff training and support than resident training or practice.

Where appropriate and approved by local authorities as well as by the Department, progressive evacuation procedures are recommended, as they may be most effective.

Monthly fire drills for staff and volunteers should be conducted at varied times during day and night.