

# **GUIDE TO ASSISTED LIVING HOME REGULATIONS AND STATUTES**

April 6, 2002

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The regulations and statutes in this guide represent Alaska law regarding licensing and operation of assisted living homes as of April 6, 2002, the effective date of amendments to the regulations.

Any changes to the regulations or to the statutes after that date would affect the accuracy of this guide. Each person responsible for the licensing and operation of an assisted living home in Alaska should make note of any such changes as they occur.

## INTRODUCTION

Dear Assisted Living Home Providers:

This guide provides a reference document in a format that will make it easy for you to find information dealing with the licensing and operating requirements for assisted living homes. It includes all changes to the assisted living home regulations and statutes as of April 6, 2002. We have included a table of contents, an index of important words and terms, and an in-depth list of barrier crimes covered by the regulations and statutes. There is also a table of regulatory and statutory requirements by home size, intended for use as a checklist, but not as a substitute for becoming thoroughly familiar with the regulations and statutes applicable to assisted living homes.

The Department of Administration and the Department of Health & Social Services appreciate the time you have given and comments that you made during the public comment period on the recent changes to the regulations. We incorporated many of your suggestions and tried to accommodate your concerns. We believe the changes go a long way toward ensuring that assisted living homes in Alaska will be among the best in the nation.

As you will recall, the changes that take effect on April 6, 2002: **(1)** add requirements to improve the safety and comfort of residents, including fire safety, room size, sanitation, and environmental protection; **(2)** change bodily injury liability insurance requirements and add requirement for professional liability insurance (to help offset this increase, we reduced the automobile liability insurance to State minimums); **(3)** enhance standards for administrators and care providers, including first aid and CPR training, adequate language skills, and continuing education; **(4)** add standards regarding the use of intervention and physical restraint; **(5)** add a requirement for a business plan for certain homes; **(6)** add a fee to be charged when noncompliance requires multiple onsite inspections; **(7)** include reference to declarations for mental health treatment; **(8)** amend and clarify requirements dealing with notification; **(9)** add a temporary variance for placement of a child in an adult facility; **(10)** add details on sanctions for noncompliance; **(11)** allow delayed implementation for, and exempt existing homes from, certain new requirements; **(12)** repeal obsolete material; and **(13)** other changes to clarify intent.

Homes that were already licensed on April 6, 2002, have up to one year to comply with certain of the new requirements [see 7 AAC 75.010(a)(2)(A) and (B) for details], and are exempt from certain of the new requirements [see 7 AAC 75.010(a)(2)(C) for details].

We appreciate the commitment to providing excellent assisted living care that is evident in all of our dealings with the assisted living community. We look forward to hearing from you about additional ways this important service can be improved.

If you have questions regarding implementation of the regulations or need technical assistance, please contact Gary Ward (Department of Administration, Division of Senior Services, (907) 269-3645) or Mel Richardson (Department of Health & Social Services, Division of Mental Health and Developmental Disabilities, (907) 269-3615).

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Department of Administration

Department of Health and Social Services

# TABLE OF CONTENTS

INTRODUCTION .....i

## REGULATIONS

2 AAC 42.010. Assisted Living Homes Regulations Adopted by Reference .....1

### LICENSING OF ASSISTED LIVING HOMES

7 AAC 75.010. Applicability .....3  
7 AAC 75.020. Types of license; duration; licensing responsibility.....4  
7 AAC 75.030. Powers and duties of licensing agency.....5  
7 AAC 75.040. (Repealed).....5  
7 AAC 75.050. Voluntary licensure.....5  
7 AAC 75.060. Probationary license.....6  
7 AAC 75.070. Standard license.....6  
7 AAC 75.080. Application for license; modification.....6  
7 AAC 75.085. Inspection of financial records .....8  
7 AAC 75.090. Renewal; staggered renewal; extension.....9  
7 AAC 75.100. Fees .....10  
7 AAC 75.110. Content of license; posting.....11  
7 AAC 75.120. Denial of license.....12  
7 AAC 75.130. License not transferable.....12  
7 AAC 75.140. Access and inspection.....12

### OPERATION OF ASSISTED LIVING HOMES

7 AAC 75.210. Organization; administration; staff .....14  
7 AAC 75.215. Criminal background check requirements.....18  
7 AAC 75.220. General requirements .....21  
7 AAC 75.230. Administrator.....22  
7 AAC 75.240. Care provider .....24  
7 AAC 75.250. Advertising .....25  
7 AAC 75.260. General environmental requirements.....25  
7 AAC 75.265. Food service.....27  
7 AAC 75.270. Safety and evacuation requirements .....27  
7 AAC 75.280. Sanitation and environmental protection.....30  
7 AAC 75.290. Emergency situations .....31  
7 AAC 75.295. Use of intervention and physical restraint.....32

7 AAC 75.300. Assisted living plan.....	34
7 AAC 75.305. Determination regarding declarations for mental health treatment .....	34
7 AAC 75.310. Acceptance and management of residents' money.....	35
7 AAC 75.320. Annual monitoring report.....	37
7 AAC 75.330. Refund of rent.....	37
7 AAC 75.340. Notification requirements.....	38

**VARIANCES**

7 AAC 75.410. Grounds for variance.....	41
7 AAC 75.415. Temporary variance to admit a child for care in an assisted living home.....	42
7 AAC 75.420. Application for variance, generally .....	42
7 AAC 75.430. Application for temporary variance.....	43
7 AAC 75.440. Evaluation of application for temporary variance .....	44
7 AAC 75.450. Grant or denial of temporary variance.....	44
7 AAC 75.460. Application for permanent variance.....	45
7 AAC 75.470. Evaluation of application for permanent variance .....	46
7 AAC 75.480. Grant or denial of permanent variance.....	46
7 AAC 75.490. Appeal from denial of variance .....	47

**VIOLATIONS**

7 AAC 75.510. Violation conference .....	48
7 AAC 75.520. Report of compliance in response to notice of violation .....	48
7 AAC 75.530. Violation constituting an emergency .....	49
7 AAC 75.540. Temporary inability to correct a violation constituting an emergency.....	49
7 AAC 75.550. Refusal to correct a violation constituting an emergency.....	50
7 AAC 75.560. Sanctions based on conviction of administrator .....	50
7 AAC 75.570. Sanctions for noncompliance .....	51

**GENERAL PROVISIONS**

7 AAC 75.990 .....	52
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# STATUTES

## ARTICLE 1. SCOPE; SERVICES; OPERATIONS

AS 47.33.005. Purpose.....	58
AS 47.33.00. Applicability.....	58
AS 47.33.020. Health-related services allowed in assisted living homes.....	59
AS 47.33.030. Advance payments.....	61
AS 47.33.040. Residents money.....	61
AS 47.33.050. Temporary absence.....	62
AS 47.33.060. House Rules.....	62
AS 47.33.070. Resident files.....	63
AS 47.33.080. Closure or relocation: change of mailing address.....	64
AS 47.33.090. Rate increase .....	64
AS 47.33.100. Criminal background check for employees.....	64

## ARTICLE 2. RESIDENCY; ASSISTED LIVING PLANS

AS 47.33.200. Commencement of residency.....	65
AS 47.33.210. Residential services contracts.....	65
AS 47.33.220. Assisted living plan required.....	66
AS 47.33.230. Assisted living plan contents; distributions.....	66
AS 47.33.240. Evaluation of assisted living plan.....	68

## ARTICLE 3. RESIDENT'S RIGHTS

AS 47.33.300. Resident's Rights .....	69
AS 47.33.310. Notice of Rights .....	71
AS 47.33.320. Access to assisted living home .....	71
AS 47.33.330. Prohibitions .....	72
AS 47.33.340. Resident grievance procedure.....	73
AS 47.33.350. Retaliation against home resident.....	73
AS 47.33.360. Involuntary termination of contract.....	74

## ARTICLE 4. LICENSING

AS 47.33.400. License required.....	75
AS 47.33.410. Licensing agency.....	75
AS 47.33.420. Standard forms .....	76
AS 47.33.430. Authority of state agencies to impose additional requirements .....	76

**ARTICLE 5. ENFORCEMENT**

AS 47.33.500. Complaint .....77  
AS 47.33.510. Immunity.....77  
AS 47.33.520. Investigation .....77  
AS 47.33.530. Notice of violation.....78  
AS 47.33.540. Report of compliance.....79  
AS 47.33.550. Administrative sanctions .....79  
AS 47.33.560. Administrative procedures .....81  
AS 47.33.570. Criminal penalty .....81

**ARTICLE 6. GENERAL PROVISIONS**

AS 47.33.910. Fees .....81  
AS 47.33.920. Regulations .....81  
AS 47.33.930. Definitions .....82

**APPENDICES**

BARRIER CRIMES BARRING EMPLOYMENT IN AN ASSISTED LIVING HOME.....87  
TABLE OF REQUIREMENTS BY SIZE OF HOME.....101

**INDEX.....107**

# **REGULATIONS**



The Department of Health and Social Services and the Department of Administration are responsible under AS 47.33 for jointly developing and implementing the regulations in 7 AAC 75, dealing with the licensing and operation of assisted living homes. The Department of Administration's regulation that adopts 7 AAC 75 by reference is included here for the reader's convenience.

## **TITLE 2. ADMINISTRATION.**

### **CHAPTER 42. ASSISTED LIVING HOMES.**

**2 AAC 42.010. ASSISTED LIVING HOMES REGULATIONS ADOPTED BY REFERENCE.** The assisted living homes regulations in 7 AAC 75, as amended through April 6, 2002, were developed jointly by the Department of Administration and the Department of Health and Social Services. By the adoption of this section, those regulations are made applicable to facilities licensed by the Department of Administration as well as to those licensed by the Department of Health and Social Services. (Eff. 7/1/95, Register 134; am 9/28/2001, Register 159; am 4/6/2002, Register 162)

Authority:	AS 47.33.005	AS 47.33.100	AS 47.33.540
	AS 47.33.010	AS 47.33.400	AS 47.33.920
	AS 47.33.040	AS 47.33.410	

**TITLE 7. HEALTH AND SOCIAL SERVICES.**

**CHAPTER 75. ASSISTED LIVING HOMES.**

**Article**

1. Licensing of Assisted Living Homes (7 AAC 75.010 – 7 AAC 75.140)
2. Operation of Assisted Living Homes (7 AAC 75.210 – 7 AAC 75.340)
3. Variances (7 AAC 75.410 – 7 AAC 75.490)
4. Violations (7 AAC 75.510 – 7 AAC 75.570)
5. General Provisions (7AAC 75.990)

**ARTICLE 1. LICENSING OF ASSISTED LIVING HOMES.**

**Section**

10. Applicability
20. Types of license; duration; licensing responsibility
30. Powers and duties of licensing agency
40. (Repealed)
50. Voluntary licensure
60. Probationary license
70. Standard license
80. Application for license; modification
85. Inspection of financial records
90. Renewal; staggered renewal; extension
100. Fees
110. Content of license; posting
120. Denial of license
130. License not transferable
140. Access and inspection

**7 AAC 75.010. APPLICABILITY.** (a) The requirements of this chapter apply to the licensure and operation of those assisted living homes that are the responsibility of the Department of Health and Social Services and those that are the responsibility of the Department of Administration, as follows:

(1) an assisted living home licensed on or after April 6, 2002, is subject to all applicable requirements of this chapter;

(2) an assisted living home licensed before April 6, 2002, is subject to all applicable requirements of this chapter, except that the home

(A) shall comply, no later than April 6, 2003, with the applicable requirements of 7 AAC 75.210(a)(8), dealing with professional liability insurance and bodily injury liability insurance; however, each assisted living home shall maintain not less than \$100,000 per resident of bodily injury liability insurance before that date;

(B) shall comply, no later than April 6, 2003, with the applicable requirements of

(i) 7 AAC 75.270(g)(7), dealing with windows in bedrooms; and

(ii) 7 AAC 75.280(a)(2), dealing with water and sewage requirements for assisted living homes that serve less than six residents; and

(C) is exempt from

(i) those training and experience requirements of 7 AAC 75.230(c) that an administrator of a home on April 6, 2002, does not already meet; that administrator shall comply with the continuing education requirements of 7 AAC 75.220(e); however, an administrator hired after April 6, 2002, is subject to all requirements of 7 AAC 75.230 in addition to all other requirements for administrators in this chapter; and

(ii) the requirements of 7 AAC 75.260(a)(7), dealing with bedroom standards.

(b) A home licensed under AS 47.35 is exempt from licensing under AS 47.33 and this chapter. (Eff. 7/1/95, Register 134; am 4/6/2002, Register 162)

Authority: AS 47.33.410 AS 47.33.920

**7 AAC 75.020. TYPES OF LICENSE; DURATION; LICENSING RESPONSIBILITY.** (a) There are two types of assisted living home licenses, as follows:

(1) probationary, for homes

(A) that have not previously been licensed under AS 47.33 and this chapter; or

(B) for which a standard license has been converted to probationary status because of noncompliance with AS 47.33 or this chapter;

(2) standard, for homes that have passed the probationary period.

(b) Subject to the possibility of suspension or revocation under AS 47.33 and this chapter, a license is valid for the following periods:

(1) probationary: a period set by the licensing agency, not to exceed two years, with a possible one-year extension; and

(2) standard: two years, except as stated in 7 AAC 75.090.

(c) Repealed 4/6/2002.

(d) A license will be issued to a home providing care

(1) primarily to persons with a mental or developmental disability, in which case it is the responsibility of the Department of Health and Social Services;

(2) primarily to persons who have a physical disability, who are elderly, or who suffer from dementia, but who are not diagnosed as chronically mentally ill, in which case it is the responsibility of the Department of Administration; and

(3) to approximately equal numbers of persons described in (1) and (2) of this subsection, or to a home seeking its probationary license and for which the administrator has not yet decided which specific category of persons to serve; in such a case the Department of Health and Social Services and the Department of Administration will jointly consider the purposes of AS 47.33, the service features of the particular home, and, if any, the preference of the home, and jointly decide which one of those agencies will have the sole licensing responsibility for that home; a dual license, entitling the home to serve persons described in both (1) and (2) of this subsection, will be issued; an applicant for a dual license may apply to either agency. (Eff. 7/1/95, Register 134; am 4/6/2002, Register 162)

Authority: AS 47.33.410 AS 47.33.920

**7 AAC 75.030. POWERS AND DUTIES OF LICENSING AGENCY.** (a) The licensing agency will

- (1) license assisted living homes in accordance with AS 47.33 and this chapter;
- (2) investigate license applicants, licensees, and homes that are required to be licensed for compliance with AS 47.33 and this chapter;
- (3) enforce the standards established by AS 47.33 and this chapter; and
- (4) inspect and investigate complaints of abandonment, abuse, exploitation, neglect, or self-neglect in assisted living homes.

(b) The licensing agency may designate by a written agreement conforming to (c) of this section a state, municipal, or private agency to investigate and make recommendations to the licensing agency for the licensing of assisted living homes under procedures and standards of operation established by the licensing agency.

(c) An agreement executed under (b) of this section must include

- (1) a description of the respective regulatory responsibilities of the licensing agency and the other agency;
- (2) procedures for processing variance requests;
- (3) procedures for record maintenance and sharing; and
- (4) procedures for appealing the investigative findings and recommendations made by the designated agency for and to the licensing agency. (Eff. 7/1/95, Register 134; am 4/6/2002, Register 162)

Authority: AS 47.33.410 AS 47.33.920

**7 AAC 75.040. CONVERSION OF OTHER LICENSES.** Repealed. (Eff. 7/1/95, Register 134; repealed 4/6/2002, Register 162)

**7 AAC 75.050. VOLUNTARY LICENSURE.** The licensing agency may, as time permits, issue a license to an assisted living home that serves one or two adult residents whether or not the residents are related to the owner by blood or marriage, and that is not required by AS 47.33.010 and 47.33.400 to be licensed, but that wishes to become licensed voluntarily. All provisions of this chapter apply to this type of licensure. (Eff. 7/1/95, Register 134; am 4/6/2002, Register 162)

Authority: AS 47.33.920

**7 AAC 75.060. PROBATIONARY LICENSE.** (a) The licensing agency will issue a probationary license to operate an assisted living home if the licensing agency finds that the application and the home's plan for operation comply with AS 47.33 and this chapter. In determining compliance with AS 47.33 and this chapter, the licensing agency will consider the nature, size, and character of the home and its residents, and whether the prevailing residential standards of the community and neighborhood in which the home is located are protective of life, health, and safety.

(b) At any time before the expiration of a probationary license, but after the assisted living home is operating, the licensing agency may convert a probationary license to a standard license. (Eff. 7/1/95, Register 134; am 4/6/2002, Register 162)

Authority: AS 47.33.410 AS 47.33.920

**7 AAC 75.070. STANDARD LICENSE.** (a) The licensing agency will issue a standard license to operate an assisted living home if, upon completion of the probationary period and after inspection or investigation, the licensing agency finds that the home is operating in compliance with AS 47.33 and this chapter.

(b) In determining compliance with AS 47.33 and this chapter, the licensing agency will consider the nature, size, and character of the home and its residents, and whether the prevailing residential standards of the community and neighborhood in which the home is located are protective of life, health, and safety. (Eff. 7/1/95, Register 134; am 4/6/2002, Register 162)

Authority: AS 47.33.410 AS 47.33.920

**7 AAC 75.080. APPLICATION FOR LICENSE; MODIFICATION.** (a) A person may not begin operation of an assisted living home until that person has obtained a probationary or standard license from the appropriate licensing agency. A person may not move the location or make a major modification of a licensed assisted living home, or increase the number of residents the home is licensed to serve until that person has obtained approval for a modification of its license from the licensing agency. An application under this section must be made on a form supplied by the licensing agency. A person may not apply for a license to operate one or more additional homes until each current home has passed the probationary period and been issued a standard license. For purposes of this subsection, "major modification" means a change to the home that, during construction of the modification, would adversely affect the residents, services to residents, or emergency evacuation of residents.

(b) An application for a license to operate an assisted living home must be notarized and must contain

(1) the name, title, address, telephone number, and, if available, electronic-mail address and facsimile number of

(A) the applicant;

(B) each person who has an ownership interest in the home;

(C) the chief executive officer of the unit or subunit of government, if the applicant is a government entity;

(D) the owner of the premises in which the home will be located, if the applicant is not the owner of the premises; and

(E) the administrator of the home;

(2) the name of the assisted living home, if known by a name;

(3) the address of the assisted living home or the proposed new location of the assisted living home;

(4) evidence that the administrator meets the requirements of 7 AAC 75.215, 7 AAC 75.220, and 7 AAC 75.230;

(5) repealed 4/6/2002;

(6) the number of individuals within the maximum occupancy number established by the fire safety inspection required under 7 AAC 75.270 that a home licensed for six or more residents intends to serve;

(7) the number of residents the home intends to serve who are expected to be persons who

(A) have a primary diagnosis of mental illness or physical or developmental disability; or

(B) are elderly or suffering from dementia, but who are not mentally ill;

(8) the services the home proposes to offer;

(9) copies of all permits and approvals required by state or local government agencies, other than the licensing agency, for construction or operation of the home;

(10) any request for temporary or permanent variance from a provision of AS 47.33 or this chapter, as provided in 7 AAC 75.410 - 7 AAC 75.490;

(11) a staff plan that describes the number of employees that will be employed by the home and each employee's responsibilities; the application must indicate that the home is prepared to modify the proposed staff plan to meet the terms of an individual residential services contract executed under AS 47.33.210 or an assisted living plan prepared under AS 47.33.220 and 47.33.230;

(12) a disaster preparedness plan to protect the residents of the home from disaster;

(13) a business plan, if applying to operate a home licensed for 11 or more residents or to operate multiple homes; the plan must include a description of the plan, services offered, the location of the business, a management and personnel plan, and projected detail of anticipated monthly expenses for six months; and

(14) information concerning any denial of a prior application, voluntary termination of a license during an investigation, or termination of an administrator or care provider for cause.

(c) An application to modify a license must contain the applicant's name, title, address, telephone number, and, if available, electronic-mail address and facsimile number. The application must also describe the modification sought. If the modification is to increase the number of residents served to 11 or more, the application must also include the business plan described in (b)(13) of this section. (Eff. 7/1/95, Register 134; am 9/28/2001, Register 159; am 4/6/2002, Register 162)

Authority: AS 47.33.410 AS 47.33.920

**7 AAC 75.085. INSPECTION OF FINANCIAL RECORDS.** If requested by the licensing agency, the home shall allow the agency to inspect the home's financial records to determine whether the home has sufficient financial resources to operate for a minimum of three months without considering resident income. (Eff. 4/6/2002, Register 162)

Authority: AS 47.33.410 AS 47.33.920

**7 AAC 75.090. RENEWAL; STAGGERED RENEWAL; EXTENSION.** (a) Before a license expires, the licensing agency will notify the licensee that the license is due for renewal.

(b) The licensing agency may inspect an assisted living home at any time before a license expires, to determine compliance with AS 47.33 and this chapter and eligibility for renewal.

(c) If the licensing agency finds that the home is not in compliance with AS 47.33 and this chapter, the home, in coordination with the licensing agency, shall develop a plan of correction with a date for achieving compliance with each provision found to be in noncompliance. If the home is in substantial compliance by each applicable date set out in the plan of correction, the licensing agency will issue a probationary license. If the home is in compliance, the licensing agency will issue a standard license.

(d) If the licensing agency finds that the home is in compliance with AS 47.33 and this chapter, has provided services to residents in accordance with its contracts and plans of care, has maintained the home in good repair, and is in compliance with all applicable local and state building code, fire code, and sanitation code requirements, the agency will renew the home's standard license for two years.

(e) If several licensees apply for renewal within a short time, the licensing agency may stagger the license renewal dates to facilitate handling the renewals. The licensing agency may adjust renewal dates to facilitate the licensing of each assisted living home located in the same geographic area at the same time. The licensing agency will not extend or adjust a renewal date for an assisted living home that, during the licensing period, has had more than one complaint filed against it for which the licensing agency

(1) and the home have developed a plan of correction; or

(2) has issued a notice of violation.

(f) Repealed 4/6/2002.

(g) Repealed 4/6/2002.

(h) Repealed 4/6/2002.

(i) The licensing agency will promptly notify the licensee in writing of any rescheduled renewal date. (Eff. 7/1/95, Register 134; am 4/6/2002, Register 162)

Authority: AS 47.33.400 AS 47.33.540 AS 47.33.920  
AS 47.33.410

**7 AAC 75.100. FEES.** (a) An application for a license, or renewal of a license, must be accompanied by the appropriate fee, as follows:

- (1) voluntary license..... \$ 25
- (2) probationary or standard license for homes with capacity to serve three to five residents.....\$75
- (3) probationary or standard license for homes with capacity to serve six or more residents.....\$150.

(b) In addition to the base license application fee, set out in (a) of this section, an application under (a)(2) of this section must be accompanied by a fee of \$25 for each resident accommodation beyond three that the home seeks licensure to provide, and an application under (a)(3) of this section must be accompanied by a fee of \$25 for each resident accommodation beyond six that the home seeks licensure to provide.

(c) An assisted living home that applies for a license modification to move its location or make some other major modification, or to expand its capacity to serve additional residents, at any time other than at the time of license renewal, shall

- (1) in the case of a modification not involving additional resident capacity, pay a fee of \$25;
- (2) in the case of a modification seeking only to add to the home's resident capacity, pay \$25 for each additional resident accommodation, regardless of the amount of time left in the current license period;
- (3) in the case of a home seeking modifications described in both (1) and (2) of this subsection, pay the fees stated in both (1) and (2).

(d) After the first two onsite visits following an inspection that reveals noncompliance with AS 47.33 or this chapter, the licensee shall pay a fee of \$150 for each additional onsite visit by the licensing agency that results from failure of the licensee to achieve and maintain compliance within a reasonable time set by the agency.

(e) Fees due under this section are nonrefundable. (Eff. 7/1/95, Register 134; am 4/6/2002, Register 162)

Authority: AS 47.33.410 AS 47.33.910 AS 47.33.920

**7 AAC 75.110. CONTENT OF LICENSE; POSTING.** (a) A license to operate an assisted living home will state

- (1) whether it is a probationary or standard license;
- (2) the effective date of the license;
- (3) the name of the licensee;
- (4) the location and mailing address of the home to which the license applies;
- (5) the number of residents the home is licensed to serve and which licensing agency will monitor the home's compliance with AS 47.33 and this chapter;
- (6) the expiration date of the license;
- (7) the special conditions, waivers, or variances that have been approved by the licensing agency; and
- (8) the address and phone number of the licensing agency.

(b) An assisted living home shall post the license in the home or otherwise make it readily accessible to residents, prospective residents, or resident representatives, service providers, staff, and the public. (Eff. 7/1/95, Register 134; am 4/6/2002, Register 162)

Authority: AS 47.33.410 AS 47.33.920

**7 AAC 75.120. DENIAL OF LICENSE.** (a) If the licensing agency denies an application for a license, or a license renewal, the agency will deliver to the applicant by hand or certified mail a notice of denial containing a summary of the reasons for denial of the application.

(b) If an application is denied, the applicant may reapply or may contest the denial as provided in the Administrative Procedure Act, AS 44.62.

(c) If the applicant decides to contest the denial, the applicant must appeal in writing, within 30 days after receiving the denial, to the director of the division of senior services in the Department of Administration or the director of the division of mental health and developmental disabilities in the Department of Health and Social Services, depending upon which agency denied the application. In the appeal petition, the applicant may request an oral hearing. If an oral hearing is not requested, the appeal will be decided on the basis of review of the original record and whatever additional documents and written argument the applicant presents with the appeal petition. The denial under (a) of this section serves as the statement of issues under AS 44.62.370. The decision of the director constitutes the decision of the licensing agency for the purposes of reconsideration, under AS 44.62.540, and judicial review, under AS 44.62.560.

(Eff. 7/1/95, Register 134)

Authority: AS 47.33.410 AS 47.33.560 AS 47.33.920  
AS 47.33.550

**7 AAC 75.130. LICENSE NOT TRANSFERABLE.** Unless modified under 7 AAC 75.080, a license issued under this chapter is limited to the location, individuals, and organizations named in the application and may not be transferred to a different location, individual, or organization. (Eff. 7/1/95, Register 134; am 4/6/2002, Register 162)

Authority: AS 47.33.410 AS 47.33.920

**7 AAC 75.140. ACCESS AND INSPECTION.** (a) An applicant for a license and a licensee shall permit representatives of the licensing agency to inspect a home when necessary to implement AS 47.33 and this chapter.

(b) If an applicant for a license refuses to permit an inspection, the licensing agency may seek a judicial order allowing access and inspection under AS 47.33.520.

(c) A licensee that refuses to allow access and inspection is in violation of AS 47.33. The licensing agency may prepare a notice of violation under AS 47.33.530, impose administrative sanctions under AS 47.33.550 and 7 AAC 75.570, and seek a judicial order allowing access and inspection under AS 47.33.520.

(d) If the Department of Administration or the Department of Health and Social Services has reason to believe that a home is operating as an assisted living home and has not applied for a license or refuses to permit an inspection, the department may prepare a notice of violation under AS 47.33.530 and seek a judicial order allowing access and inspection under AS 47.33.520. (Eff. 7/1/95, Register 134; am 4/6/2002, Register 162)

Authority: AS 47.33.410 AS 47.33.520 AS 47.33.920

## ARTICLE 2. OPERATION OF ASSISTED LIVING HOMES.

### Section

- 210. Organization; administration; staff
- 215. Criminal background check requirements
- 220. General requirements
- 230. Administrator
- 240. Care provider
- 250. Advertising
- 260. General environmental requirements
- 265. Food service
- 270. Safety and evacuation requirements
- 280. Sanitation and environmental protection
- 290. Emergency situations
- 295. Use of intervention and physical restraint
- 300. Assisted living plan
- 305. Determination regarding declarations for mental health treatment
- 310. Acceptance and management of residents' money
- 320. Annual monitoring report
- 330. Refund of rent
- 340. Notification requirements

**7 AAC 75.210. ORGANIZATION; ADMINISTRATION; STAFF.** (a) An assisted living home shall

(1) provide the licensing agency with the name, address, telephone number, and, if available, electronic-mail address and facsimile number of the individual or entity ultimately responsible for operation of the home or proposed home and, if the home is operated by an association, corporation, or other entity, the name, address, telephone number, and, if available, electronic-mail address and facsimile number of each member of its board or governing body and the executive director of the board or governing body;

(2) appoint an administrator who meets the requirements of 7 AAC 75.230 and an administrator designee to act on the administrator's behalf for any period during which the administrator is on vacation, is ill, or is otherwise unable to perform regular duties for 24 hours or more; if the administrator designee will be required to manage the daily operation of the home for

(A) less than 90 consecutive days, the designee must meet the requirements of 7 AAC 75.215 and 7 AAC 75.220; the administrator designee must be available and must receive proper orientation to manage the daily operation of the home in the administrator's absence; or

(B) 90 consecutive days or longer, the designee must have the same qualifications as an administrator under 7 AAC 75.230;

(3) adopt written personnel practices and, at the time of employment, inform each employee of the individual to whom the employee is responsible, the organization of the home and physical plant layout, the employee's duties and responsibilities, including those to be carried out in emergencies, and the policies, procedures, and equipment relevant to those duties and responsibilities;

(4) provide the licensing agency with a current master list, updated as necessary, that includes the name, address, and telephone number of each resident and the name, address, telephone number, and, if available, electronic-mail address and facsimile number of each resident's representative; a home that serves three or more residents shall maintain a current copy of the master list in at least one place that can be easily accessed if the home must be evacuated;

(5) ensure that recordkeeping complies with AS 47.33.070 and uses forms prescribed or approved by the licensing agency for the preparation and protection of resident records;

(6) establish policies and procedures for the completion of residential services contracts and involuntary termination of those contracts in compliance with AS 47.33.210 and 47.33.360, respectively;

(7) maintain on vehicles used by the home or the home's employees to transport residents, comprehensive automobile liability insurance

(A) for not less than

(i) \$50,000 for injury or death to any one person, \$100,000 for total injuries or death per collision, and \$25,000 for property damage; or

(ii) the amounts specified in AS 19.10.300, if applicable;

(B) with a company authorized to write insurance policies in the state; and

(C) with the following required endorsement contained in the policy: "If this policy is canceled or not renewed, the company agrees to give notice to the Department of Administration or the Department of Health and Social Services, as advised by the insured regarding which department issued the assisted living home license to the insured, at least 30 days before coverage under the policy ends"; and

(8) maintain insurance in the amount required by (A) or (B) of this paragraph with a company authorized to write insurance policies in the state; the policy must contain the following endorsement: "If this policy is canceled or not renewed, the company agrees to give notice to the Department of Administration or the Department of Health and Social Services, as advised by the insured regarding which department issued the assisted living home license to the insured, at least 30 days before coverage under the policy ends"; the amount of insurance required is

(A) for an assisted living home serving 1-10 residents, not less than \$100,000 per resident of bodily injury liability insurance, and not less than \$100,000 per resident of professional liability insurance; a home licensed for fewer than six residents may meet this requirement through a rider on the home's homeowner insurance policy that provides for use of the home as an assisted living home or adult foster home; and

(B) for an assisted living home serving 11 or more residents, not less than \$1,000,000 aggregate per accident of bodily injury liability insurance, and not less than \$1,000,000 aggregate per incident of professional liability insurance.

(b) The governing body of a home operated by an association, corporation, or other entity shall

(1) determine policy and provide for implementation of that policy by an administrator;

(2) select an administrator and evaluate the administrator's performance; and

(3) maintain minutes of meetings, relevant portions of which must be made available to the licensing agency to enable the licensing agency to carry out its responsibilities under AS 47.33 and this chapter.

(c) An assisted living home shall employ the type and number of care providers and other employees necessary to operate the home in compliance with AS 47.33 and this chapter. The home must have a sufficient number of care providers and other employees with adequate training to implement the home's general staffing plan and to meet the specific needs of residents as defined in the residents' residential services contracts and assisted living plans.

(d) Subject to (e) of this section, an assisted living home shall

of (1) have on duty a care provider or another employee with documented proof

(A) cardiopulmonary resuscitation (CPR) training provided within the previous two years by an instructor certified as required in 7 AAC 26.985; the training must be provided through the

(i) American Red Cross;

(ii) American Heart Association's CPR for Family and Friends Training Program or a more advanced program offered by the American Heart Association; or

(iii) an organization equivalent to those listed in (i)-(ii) of this subparagraph, as determined by the licensing agency; and

(B) first aid training provided within the previous three years by an instructor certified by the American Red Cross, the American Heart Association, or an equivalent organization as determined by the licensing agency; and

(2) have the means and materials available to enable the home to implement the home's disaster preparedness plan required by 7 AAC 75.080(b)(12).

(e) If the training required by (d)(1) of this section is not regularly available within 100 miles of where the home is located, the administrator shall ensure that care providers and other employees obtain this training not less than every three years. (Eff. 7/1/95, Register 134; am 4/6/2002, Register 162)

Authority: AS 47.33.070 AS 47.33.410 AS 47.33.920

**7 AAC 75.215. CRIMINAL BACKGROUND CHECK REQUIREMENTS.**<sup>1</sup> (a) An assisted living home may not hire or retain a person who is subject to a criminal background check under AS 47.33 if that person has ever been convicted of an offense listed in (b) of this section, or a similar offense under the former laws of this state or the current or former laws in another state or jurisdiction.

(b) For purposes of AS 47.33.100(c), the following are offenses covered by AS 47.33.100:

(1) a class A felony or an unclassified felony under AS 11, or an attempt, solicitation, or conspiracy to commit one of those felonies;

(2) a class B felony under

(A) AS 11.41 (offenses against the person); or

(B) AS 11.46.410 (arson in the second degree);

(3) a class C felony under AS 11.41 (offenses against the person);

(4) a sex offense that is not included in (1) – (3) of this subsection;

(5) a crime under AS 11.51.100 (endangering the welfare of a child in the first degree), AS 11.51.200 (endangering the welfare of a vulnerable adult in the first degree), or AS 11.51.210 (endangering the welfare of a vulnerable adult in the second degree);

(6) a crime under AS 11.56.840 (failure to register as a sex offender or kidnapper in the second degree), AS 11.61.123 (indecent viewing or photography), AS 11.61.125 (distribution of child pornography), AS 11.61.127 (possession of child pornography), or AS 11.61.130 (misconduct involving a corpse);

(7) two or more class B felonies that are not included in (1) – (6) of this subsection;

(8) a crime listed in this paragraph, unless the person provides written proof satisfactory to the licensing agency that the following period of time has elapsed since the imposition of the sentence, period of commitment to the custody of the Department of Health and Social Services, or unconditional discharge, whichever is longer and that the person has fully complied with any orders for counseling or treatment issued by the court or by a probation or parole authority:

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<sup>1</sup> A list of barrier crimes covered by this section is included as an appendix to this guide, providing more information regarding each category of offense.

(A) for a class B felony that is not included in (1) - (7) of this subsection, 10 years;

(B) for the following crimes, five years:

(i) a Class C felony under AS 11 that is not included in (3) – (6) of this subsection; or

(ii) a Class C felony under AS 28.35.030(n) (two or more convictions within previous five years for operating a vehicle, aircraft, or watercraft while intoxicated);

(C) for a crime involving domestic violence that is not included in (A) or (B) of this paragraph, and for a crime under AS 47.30.815 (wilful initiation of an involuntary civil commitment procedure without having good cause), two years.

(c) For the purpose of determining if a person is convicted of a single offense or of multiple offenses, the provisions of AS 12.55.145(a)(1)(C) apply.

(d) The administrator and other person who is subject to a criminal background check under AS 47.33 must provide the results of the

(1) name-check criminal background investigation required by AS 47.33.100 at the time of hire and once every two years following the date of hire; and

(2) national criminal history record check based on fingerprints, required by AS 47.33.100 within 30 days after the date of hire and once every six years following the date of hire.

(e) The results of the name-check criminal background investigation and the national criminal history record check required by AS 47.33.100 and (d) of this section are subject to the licensing agency's review and

(1) for an employee other than an administrator, must be placed in the employee's file at the assisted living home; and

(2) for an administrator, must be submitted to the licensing agency and placed in the administrator's file at the assisted living home.

(f) The assisted living home shall monitor to ensure that the administrator and other persons who are subject to a criminal background check under AS 47.33 continue to meet the requirements of this section. The home shall require the administrator and those persons described in this subsection to report to the assisted living home within 24 hours, or the next business day, of the administrator's or the person's arrest for or conviction of a crime listed in (b) of this section. The assisted living home shall ensure that the notification requirements of 7 AAC 75.340(a)(1)(A) are met within 24 hours, or the next business day, after the home receives a report under this section or learns of an arrest or conviction of a person described in this subsection.

(g) A person adjudicated as delinquent for a crime listed in (b) of this section shall be treated as a person convicted of that crime for purposes of AS 47.33.100 and this section.

(h) Except as provided in this subsection, this section applies to convictions of offenses committed before, on, or after September 28, 2001. As required by sec. 4, ch. 35, SLA 1996, this section does not apply to convictions of offenses that were committed before August 20, 1996 if the offense was committed by a person who was hired by the assisted living home before August 20, 1996.

(i) In this section, unless the context otherwise requires,<sup>2</sup>

(1) "convict" means the act of conviction;

(2) "conviction" has the meaning given in 13 AAC 09.900, as amended as of March 7, 2001 and as amended from time to time; this regulation is adopted by reference;

(3) "crime involving domestic violence" has the meaning given in AS 18.66.990;

(4) "sex offense" has the meaning given in AS 12.63.100;

(5) "unconditional discharge" has the meaning given in AS 12.55.185.  
(Eff. 9/28/2001, Register 159; am 4/6/2002, Register 162)

Authority: AS 47.33.100 AS 47.33.920 Sec. 4, ch. 35, SLA 1996  
AS 47.33.410

**Editor's Note:** The substance of this section was formerly set out in 7 AAC 75.220.

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<sup>2</sup> The definitions in this subsection are explained more fully in the list of barrier crimes included as an appendix to this guide.

**7 AAC 75.220. GENERAL REQUIREMENTS.** (a) An assisted living home shall provide safeguards to ensure that persons entering the home, including employees, volunteers, contractors, and visitors do not abuse, neglect, or exploit a resident of the home.

(b) A person seeking employment in an assisted living home shall provide

(1) the names, addresses, and telephone numbers of at least three persons who are unrelated to the person seeking employment and who will provide character references for that person;

(2) at least two employment references; an employment reference may also serve as a character reference required under (1) of this subsection;

(3) the sworn statement required by AS 47.33.100 regarding conviction of one or more crimes listed in 7 AAC 75.215;

(4) results of a name-check criminal background investigation as required by AS 47.33.100 and 7 AAC 75.215; and

(5) sets of fingerprints, as directed by the administrator, to fulfill the requirements of AS 47.33.100.

(c) A person who will be in direct contact with residents in an assisted living home shall provide evidence to the administrator that the person is free from active pulmonary tuberculosis before contact with a resident. This evidence must be provided annually and must be placed in the person's file for review by the licensing agency.

(d) Before hiring, the administrator shall ensure that each person who will be in direct, unsupervised contact with residents in an assisted living home has sufficient language skills to meet the needs of the residents of the home and the ability to access emergency services, including giving clear directions to emergency personnel of the home's location and describing the nature of the emergency in the primary language of the community. The administrator shall assess language skill level for employees, contractors, and volunteers. The licensing agency will assess the language skill level of the administrator.

(e) Each administrator, each administrator designee who will serve in that capacity for 90 consecutive days or longer, and each care provider who is an employee of an assisted living home shall participate in continuing education that is relevant to that person's primary job responsibilities and the ongoing care of residents. If courses for continuing education are not available within 100 miles of where the home is located or through correspondence or distance learning, the administrator shall ensure that the continuing education is obtained not less than every 18 months. Training requirements are as follows:

- (1) each administrator shall complete 18 clock hours of continuing education annually;
- (2) each care provider shall complete 12 clock hours of continuing education annually;
- (3) a home may count in-service training as continuing education if that training increases the knowledge, abilities, or skills of care providers and is approved by the licensing agency;
- (4) continuing education, whether in-service training or received from a state agency, a seminar, or a university, must be documented and placed in the employee's personnel file for review and approval by the licensing agency. (Eff. 7/1/95, Register 134; am 9/28/2001, Register 159; am 4/6/2002, Register 162)

Authority: AS 47.33.100 AS 47.33.410 AS 47.33.920

**7 AAC 75.230. ADMINISTRATOR.** (a) An assisted living home shall have on staff an administrator who is at least 21 years of age and meets the requirements of 7 AAC 75.215, 7 AAC 75.220, and this section.

(b) If the administrator does not manage the daily operation of the home, the administrator, or the governing body of a larger organization responsible for the home, shall appoint a resident manager who meets the requirements for an administrator under this chapter.

(c) In addition to the other requirements of this chapter, an individual may not serve as an administrator of an assisted living home unless the individual meets the training and experience requirements of this subsection. The licensing agency will accept a baccalaureate or higher degree in gerontology, health administration, or another health-related field in place of all or part of the required experience, if the degree work serves, to the licensing agency's satisfaction, as an equivalent to the required experience. Training and experience requirements are as follows:

(1) for a home licensed to serve 1-10 residents, the individual must fulfill at least one of the following requirements:

(A) the individual must complete an approved management or administrator training course and have at least one year of documented experience, relevant to the population of residents to be served, as a care provider, if the administrator will be providing direct care in the home;

(B) the individual must

(i) complete a certified nurse aide training program that the Board of Nursing has approved under 12 AAC 44.830, or that is equivalent in content to the requirements of 12 AAC 44.835(c); and

(ii) have at least one year of documented experience, relevant to the population of residents to be served, as a care provider;

(C) the individual must have at least two years of documented experience, relevant to the population of residents to be served, as a care provider, with documented skills or training relevant to the population of residents to be served;

(D) the individual must have sufficient documented experience in an out-of-home care facility, and sufficient training, education, or other similar experience to fulfill the duties of an administrator of the type and size of home where the individual is to be employed and to meet the needs of the population of residents to be served; an administrator under this subparagraph is subject to licensing agency approval on a case-by-case basis; for purposes of this subparagraph, an out-of-home care facility includes a foster care home, a board and care home, and a nursing home;

(2) for a home licensed to serve 11 or more residents, or if operating multiple homes with a total capacity of 11 or more residents, the administrator must fulfill at least one of the following requirements:

(A) the individual must complete an approved management or administrator training course and have at least two years of documented experience, relevant to the population of residents to be served, as a care provider, if the administrator will be providing direct care in the home;

(B) the individual must

(i) complete a certified nurse aide training program that the Board of Nursing has approved under 12 AAC 44.830, or that is equivalent in content to the requirements of 12 AAC 44.835(c); and

(ii) have at least two years of documented experience, relevant to the population of residents to be served, as a care provider;

(C) the individual must have at least five years of documented experience, relevant to the population of residents to be served, as an administrator or staff supervisor of a home serving 10 or fewer residents;

(D) the individual must submit proof that the individual is a licensed practical nurse or a registered nurse with documented experience relevant to the population of residents to be served. (Eff. 7/1/95, Register 134; am 9/28/2001, Register 159; am 4/6/2002, Register 162)

Authority: AS 47.33.100 AS 47.33.410 AS 47.33.920

**7 AAC 75.240. CARE PROVIDER.** (a) An individual may not be hired or retained as a care provider in an assisted living home subject to AS 47.33 and this chapter unless the person meets the requirements of 7 AAC 75.215 and 7 AAC 75.220 and is at least

- (1) 21 years of age if the individual will serve as a supervisor of other care providers;
- (2) 18 years of age if the individual will serve as a care provider working without direct supervision; or
- (3) 16 years of age if the individual will serve only as a care provider and has access to assistance from the administrator or another care provider who is at least 21 years of age.

(b) An administrator shall ensure and document that each care provider is oriented to the assisted living home's policies and procedures. Orientation under this subsection must include orientation to emergency procedures, fire safety, resident rights, universal precautions for infection control, biohazards, applicable state regulations and statutes, resident interaction, any house rules established under AS 47.33.060, sanitation, duties and responsibilities, medication management and security, physical plant layout, and reporting responsibilities. Unless a care provider has sufficient documented experience working with the population of residents to be served, the care provider shall work under the direct supervision of the administrator or an experienced care provider who is at least 21 years of age for not less than three complete work days before caring for a resident without direct supervision. Direct supervision must be documented in the personnel file of the supervised care provider.

(c) For purposes of this section, "direct supervision" means that the administrator, or a care provider who is at least 21 years of age and has received the training required under this chapter, is present in the same building as the individual being supervised and available for consultation or assistance. (Eff. 7/1/95, Register 134; am 9/28/2001, Register 159; am 4/6/2002, Register 162)

Authority: AS 47.33.010 AS 47.33.410 AS 47.33.920  
AS 47.33.100

**7 AAC 75.250. ADVERTISING.** (a) An assisted living home may not advertise that it is a "nursing home" or that it provides "nursing care," unless it holds a license under AS 18.20.020 - 18.20.130.

(b) A home may advertise that it provides housing, food service, personal assistance, assistance with the activities of daily living, or health-related services, as described in AS 47.33.010 and 47.33.020, including intermittent nursing care or short-term skilled nursing care. (Eff. 7/1/95, Register 134)

Authority: AS 47.33.010 AS 47.33.020 AS 47.33.920

**7 AAC 75.260. GENERAL ENVIRONMENTAL REQUIREMENTS.** (a) A home shall ensure that each resident has

(1) room furniture that is typical for residents of homes in the community and neighborhood in which the assisted living home is located; the furniture may be provided by the resident;

(2) storage space for clothing and personal possessions;

(3) adequate linen, soap, and personal hygiene facilities necessary for cleanliness;

(4) a signal device, as provided for in the assisted living plan of a resident who must use a device when verbal communication is not possible;

(5) reasonable privacy when sharing a room;

(6) appropriate storage and work areas adjacent to the area of use to accommodate the following functions, if conducted on the premises:

(A) food preparation and serving; and

(B) laundry; and

(7) a bedroom that meets the following standards, subject to 7 AAC 75.070(b):

(A) if the bedroom is for single occupancy, it must contain at least 80 square feet of open floor space, measured before furniture is placed in the room;

(B) if the bedroom is for double occupancy, it must contain at least 140 square feet of open floor space, measured before furniture is placed in the room;

(C) no more than two residents may be assigned to a bedroom.

(b) A home must occupy a building that is used exclusively for assisted living, except that a home may be licensed in a building that has more than one occupancy if

(1) the other occupancy is consistent with the health, safety, comfort, and well-being of the residents of the assisted living home; and

(2) the other users of the building comply with applicable state and municipal building and fire codes and environmental health codes. (Eff. 7/1/95, Register 134; am 4/6/2002, Register 162)

Authority: AS 47.33.410 AS 47.33.920

**7 AAC 75.265. FOOD SERVICE.** (a) An assisted living home shall offer three balanced, nutritious meals and at least one snack daily at consistent times. A home shall ensure that the meals and snacks offered include the recommended number of servings of each food type set out in the United States Department of Agriculture publication, *The Food Guide Pyramid*, as revised as of October 1996 and adopted by reference. The home shall offer a wide variety of food that includes fresh fruits and vegetables as often as possible.

(b) The home shall consider each resident's health-related or religious restrictions, cultural or ethnic preferences in food preparation, and preference for smaller portions, as reflected in the resident's residential services contract executed under AS 47.33.210 and assisted living plan prepared under AS 47.33.220 and 47.33.230. The home shall also consider a resident's decision, from time to time, to be served smaller portions even if that issue is not addressed in the contract or plan.

(c) An assisted living home shall keep a written record of each day's menu, document whether the meals served were as described in those menus, and keep the documented menus on file for at least one year for review by the licensing agency. (Eff. 9/28/2001, Register 159)

Authority: AS 47.33.410 AS 47.33.920

**Editor's Note:** *The Food Guide Pyramid* adopted by reference in 7 AAC 75.265 is available from the United States Department of Agriculture, Center for Nutrition Policy and Promotion, 1120 20th St., NW, Washington, D.C. 20036-3475 or go to [www.usda.gov/cnpp/pyramid2.htm](http://www.usda.gov/cnpp/pyramid2.htm)

**7 AAC 75.270. SAFETY AND EVACUATION REQUIREMENTS.** (a) An assisted living home must meet the applicable safety and evacuation requirements of this section.

(b) The licensing agency may inspect an assisted living home to determine whether

(1) the home protects against or is free from significant hazards that could cause injury or health risk;

(2) any firearms in the home are unloaded and whether any firearms and ammunition are stored separately in places reasonably inaccessible to residents; and

(3) the home has installed and maintained hot water temperature controls so that hot water delivered to plumbing fixtures, excluding dishwashers, is not more than 120 degrees Fahrenheit.

(c) An assisted living home must have a disaster preparedness and emergency evacuation plan approved by the licensing agency. The plan must provide for

(1) the complete evacuation of residents during an emergency; and

(2) emergency evacuation drills to be held at least twice year.

(d) An assisted living home shall

(1) ensure that each stored medication is properly labeled with the resident's name, name of medication, dosage, expiration date, and directions for administration;

(2) store medications in a manner that prevents access by unauthorized persons;

(3) store controlled substances in a locked storage container and ensure that each substance is accurately accounted for; and

(4) store medications, including controlled substances, in accordance with the manufacturer's recommendations.

(e) Before a license will be issued under AS 47.33 and this chapter, an assisted living home seeking to be licensed for six or more residents must

(1) meet the standards for life and safety specified in 13 AAC 50 and 13 AAC 55; all information required by those standards shall be kept available for inspection by the licensing agency;

(2) obtain any municipal building code approval; approval must also be obtained before making a modification to a licensed home if the modification is one that requires that approval; and

(3) obtain a fire safety inspection report from each state or municipal authority responsible for those inspections, and continue to obtain these reports every two years, or more often if required by a state or municipal authority; the licensing agency will submit a request for inspection to the state or municipal authority on the home's behalf; the home is responsible for any fee charged by the state or municipal authority for the inspection.

(f) The licensing agency may inspect, or require a self-monitoring report on a safety issue of, an assisted living home licensed for fewer than six residents, with consideration given to prevailing community residential standards, to determine whether the home is built and maintained in a manner protective of life, health, and safety, with respect to the residents' bedrooms, exit to the outside of the building, operational smoke detectors or fire extinguishers, the storage and disposition of combustible waste material, and portable heating mechanisms. Submitting a false report under this subsection is grounds for issuing a notice of violation under AS 47.33.530.

(g) Assisted living homes licensed for fewer than six residents must

(1) have one fully charged 2 A:10 BC dry chemical fire extinguisher strategically located on each level of the home;

(2) maintain the home free of any accumulation of combustible waste material in or around the premises;

(3) store flammable liquids in containers that have tight-fitting lids and are specifically designed for the particular flammable liquids;

(4) have heating appliances that are

(A) not placed or located in exitways or corridors at any time or in bedrooms during sleeping hours, unless the home is a one-room home;

(B) equipped with protective devices when presenting a hazard because of exposed flame or heating element;

(C) maintained in a safe and serviceable manner; and

(D) vented to the outside to discharge smoke and combustion gases, if the appliances are fuel burning;

(5) have one or more smoke detection devices that are operational, monitored, powered by battery or alternating current, and located in each bedroom; if the licensed home is a multi-level home, at least one smoke detector must be installed on each level in addition to those required in each bedroom;

(6) have at least two means of emergency escape that are remote from each other and that provide unobstructed escape to the outside of the building, one of which must be an exterior door;

(7) have at least one fully-opening window in each resident's bedroom; the window must be of sufficient size and free of obstructions to allow for emergency escape or rescue unless the room has a door leading directly to the outside; for purposes of this paragraph, "sufficient size" means that the window has a finished sill height that does not exceed 48 inches above the floor, has a net clear openable area that is at least 5.7 square feet, has a net clear openable height of at least 24 inches, and has a net clear openable width of at least 20 inches;

(8) ensure that open flame heaters are not used, except for fireplaces in compliance with 13 AAC 50, 13 AAC 55, and any applicable municipal building code;

(9) ensure that window screens are not used if they permanently prevent exit or if they cannot be easily removed for exit;

(10) designate an area for smoking, if smoking is permitted; and

(11) ensure that emergency procedures are reviewed with each resident and the resident's representative before the resident takes up residency in the home and at least once a year after that date.

(h) An assisted living home licensed for fewer than six residents shall make and retain a record of each required evacuation drill and make the record available to the licensing agency upon request. The record must include the time, date, and critique of the drill, the personnel who participated, the names of residents who did and did not participate, the reasons for non-participation, and the amount of time required to complete the drill. Emergency evacuation drills may be postponed during severe weather, but residents must be instructed on emergency evacuation procedures.

(i) If the licensing agency determines that it is necessary, the agency will request an advisory inspection report from one or more state or municipal building or fire safety authorities for a home licensed for fewer than six residents. The home is responsible for any fee charged by the state or municipal authority for the inspection. (Eff. 7/1/95, Register 134; am 4/6/2002, Register 162)

Authority: AS 47.33.410 AS 47.33.920

**7 AAC 75.280. SANITATION AND ENVIRONMENTAL PROTECTION.** (a) An assisted living home licensed for

(1) six or more residents must satisfy applicable state and municipal standards for sanitation and environmental protection and ensure that the home is inspected at least every two years by each state or municipal authority responsible for these inspections; a copy of each inspection report must be maintained for at least two years and made available for review by the licensing agency; the licensing agency may submit a request for inspection to the state or municipal authority on the home's behalf; the home is responsible for any fee charged by the state or municipal authority for the inspection; or

(2) less than six residents must

(A) if the home has a private water supply, have it approved by the municipal health authority, have the water tested for bacterial contamination at least once each year, and label nonpotable water on the premises to avoid inappropriate use; and

(B) ensure that sewage and liquid wastes are discharged into a public sewer system or into an independent sewage system approved by the appropriate state or municipal authority.

(b) The licensing agency may inspect an assisted living home licensed for fewer than six residents to determine, with consideration given to prevailing community residential standards, whether the home is clean and maintains satisfactory levels of sanitation and environmental protection. As part of an inspection, the licensing agency will determine whether the home has

(1) a sufficient supply of potable water and an acceptable system for the disposal of sewage; and

(2) the facilities necessary for the proper care, storage, and preparation of food.

(c) Repealed 4/6/2002.

(d) If the licensing agency determines that it is necessary, the agency will request an advisory inspection report from one or more state or municipal sanitation or public health authorities. The home is responsible for any fee charged by the state or municipal authority for the inspection. (Eff. 7/1/95, Register 134; am 4/6/2002, Register 162)

Authority: AS 47.33.410 AS 47.33.920

**7 AAC 75.290. EMERGENCY SITUATIONS.** (a) If a resident experiences a medical emergency, serious injury, or accident, is involved in assaultive behavior that could injure the resident or another person or that requires police intervention, or is absent without prior notice to the home and could pose a risk of harm to the resident or others, the assisted living home shall

(1) access emergency services, if needed, and provide the emergency care that a reasonably prudent person would provide under the circumstances, including notice to the resident's physician and representative; and

(2) record the date, time, and circumstances of the accident, serious injury, medical emergency, or incident in the resident's file and in any general daily log kept by the home, and provide a copy of the report to the licensing agency as required under 7 AAC 75.340.

(b) An assisted living home shall maintain readily-available first aid supplies appropriate to its size, and post or make readily available the first aid procedures. (Eff. 7/1/95, Register 134; am 4/6/2002, Register 162)

Authority: AS 47.33.410 AS 47.33.920

**7 AAC 75.295. USE OF INTERVENTION AND PHYSICAL RESTRAINT.** (a) An assisted living home must have a written procedure regarding the use of physical restraint. That procedure must be approved by the licensing agency under AS 47.33.330.

(b) As provided in AS 47.33.330(a)(4), an assisted living home may use physical restraint if a resident's actions present an imminent danger to the resident or others, but only after other interventions, including the use of a time out, have failed. A time out or physical restraint may not be used as a punishment, as a substitute for a less restrictive form of intervention, or as a convenience for the home's staff. A time out or physical restraint must be terminated as soon as the resident no longer presents an imminent danger to that resident or others.

(c) At the time of a resident's admission to the home, the home shall

(1) explain its approved physical restraint procedures to the resident or resident's representative;

(2) perform an assessment at the time of admission regarding the potential need for the use of time outs or physical restraint, asking for information

(A) about the resident's prior behavior that might indicate a need for the use of time outs or physical restraint; and

(B) that might help minimize use of time outs or physical restraint;

(3) address the need for using time outs or physical restraint in the resident's assisted living plan if the home has reason to believe that time outs or physical restraint may be necessary because the resident's prior behavior or medical condition indicates that the resident may occasionally present an imminent danger to the resident or others; the plan must include information regarding

(A) when time outs or physical restraint should be used;

(B) what forms of physical restraint should be used, based on recommendations from the resident's primary physician; and

(C) any prenotification procedures requested by the resident's representative if the 24-hour notice required by (d)(1) of this section is unsatisfactory to the representative.

(d) If physical restraint is used, the assisted living home shall

(1) notify the resident's representative within 24 hours, unless the representative has agreed, as reflected in the resident's assisted living plan, that notification under (2) of this subsection is sufficient; and

(2) document any use of physical restraint in the written report required under 7 AAC 75.340(a)(4) that includes

(A) the resident's name;

(B) a description of the incident that led to the decision to use physical restraint;

(C) a brief description of any other form of intervention used or attempted before the use of physical restraint;

(D) the type of physical restraint used;

(E) the time when physical restraint began; and

(F) the time when physical restraint ended.

(e) For purposes of this section, a time out is the restriction of a resident, with that resident's consent, to a quiet area or unlocked quiet room for a period not to exceed 30 minutes. A home may not require a resident to take a time out without that resident's consent, and may not use a time out that exceeds 30 minutes, with or without that resident's consent.

(f) For purposes of this section, physical restraint is a manual method that restricts body movement, or a physical or mechanical device, material, or piece of equipment that is attached or adjacent to the resident's body, that prevents the resident from easily removing it, and that restricts movement or normal access to the body. The use of the following safety equipment will not be considered physical restraint if authorized in writing by the resident's primary physician, and if the necessity for its use is set out in the resident's assisted living plan:

(1) self-release safety belts;

(2) lap-top trays;

(3) wedge chair cushions;

(4) concave mattresses; and

(5) bedside rails if used for a resident who

(A) lacks independent mobility but has involuntary movement, including a seizure disorder, that could cause the resident to fall from bed; or

(B) needs the rails to assist in mobility. (Eff. 4/6/2002, Register 162)

Authority: AS 47.33.410 AS 47.33.920

**7 AAC 75.300. ASSISTED LIVING PLAN.** (a) Preparation of an assisted living plan in accordance with AS 47.33.220, 47.33.230, and this chapter shall include a review of any other existing plan of care that may already be in place for the resident. A plan of care already in place for a resident may substitute for the assisted living plan required by AS 47.33.220 and 47.33.230 if the existing plan incorporates substantially the same provisions and addresses the same requirements as would an assisted living plan.

(b) When an existing plan of care cannot be substituted for an assisted living plan, the assisted living plan required by AS 47.33.220 and 47.33.230 must, insofar as possible, incorporate the provisions of the plan of care already in place for the resident.

(c) Evaluation of assisted living plans for residents will take into account the timelines established for evaluation of existing plans of care, and will, insofar as possible, set similar evaluation timelines to avoid duplicative evaluation efforts.

(d) Copies of existing plans of care for a resident shall be placed in the assisted living file, along with the assisted living plan. (Eff. 7/1/95, Register 134)

Authority: AS 47.33.220 AS 47.33.240 AS 47.33.920  
AS 47.33.230

**7 AAC 75.305. DETERMINATION REGARDING DECLARATIONS FOR MENTAL HEALTH TREATMENT.** An assisted living home licensed by the Department of Health and Social Services shall make a reasonable effort to determine whether a resident has made a declaration of preferences or instructions regarding mental health treatment under AS 47.30.950 by consulting with the resident, the resident's primary physician, the resident's case manager, the resident's spouse, parent, or guardian, a person in the resident's household, a person designated by the resident, or the resident's representative. (Eff. 4/6/2002, Register 162)

Authority: AS 47.33.410 AS 47.33.920

**7 AAC 75.310. ACCEPTANCE AND MANAGEMENT OF RESIDENTS' MONEY.**

(a) Before an assisted living home accepts the money of a resident for safekeeping and management, the home shall obtain written authorization from the resident or the resident's representative or representative payee. The authorization must

(1) be attested to by a competent witness who has no pecuniary interest in the home or its operations, and who is not connected to the home or its operations in any manner;

(2) indicate exactly which or how much of the resident's money the assisted living home is authorized to manage; and

(3) provide for an amount not to exceed \$100 a month that the assisted living home may keep on hand for the resident to use to meet that resident's day-to-day needs, unless the resident has other sources of money for that purpose.

(b) A home shall establish a system for residents to request withdrawals from the daily-needs money that the home controls. The home shall advise the resident of the available balance of the daily-needs money at the time of each withdrawal and shall keep a record of all withdrawals and balances.

(c) After receiving authorization from the resident or resident's representative to manage the resident's money for the resident, the assisted living home shall

(1) promptly deposit all of the resident's money that the home is authorized to manage, except the money in the resident's daily needs fund, in an interest-bearing designated trust account in a bank, savings and loan association, or licensed escrow agent, insured by the Federal Deposit Insurance Corporation (FDIC), separate from other money and property of the home; and

(2) provide in writing to the resident, or the resident's representative, the account number and the name and address of the financial institution in which the resident's money has been deposited.

(d) An assisted living home that is authorized to manage the money of more than one resident may deposit it in a common designated residents' trust account only if the home has the capability of tracking the account activity specific to each resident, and then issuing a detailed statement of each resident's money to those residents whose money is commingled in the same account. Those statements shall be provided at least quarterly.

(e) When managing the money of a resident, the assisted living home shall, in accordance with the resident's assisted living plan, spend money only to meet the needs of the resident.

(f) When managing the money of residents through deposits in separate trust accounts, the assisted living home shall

(1) provide each resident or the resident's representative with a copy of each written account statement from the financial institution in which the money has been deposited; and

(2) provide each resident or the resident's representative, without charge, a written, itemized statement, at least quarterly, of all financial transactions involving the resident's money being managed by the home.

(g) Upon a written request by the resident or the resident's representative, the assisted living home shall return to the resident or the resident's representative, within three business days, as much of the resident's money as requested, including any interest accrued from deposits. The money may be returned by means of a check.

(h) Upon a voluntary or involuntary termination of the resident's assisted living contract, the assisted living home shall, within three business days, return to the resident or the resident's representative at least 90 percent of the resident's money, less any accrued charges, whether the money is in a designated trust account or in the resident's daily-needs account. The home shall return all remaining money belonging to the resident within 60 calendar days after termination of the contract.

(i) An assisted living home shall provide a complete accounting of the resident's money to the personal representative, as defined in AS 13.06.050, of a resident's estate within 30 days after the resident's death. In the absence of a personal representative, the home shall provide the accounting and the deceased resident's assets to the public administrator appointed under AS 22.15.310.

(j) If a home or the entity operating the home is sold, the home shall provide the buyer with written verification of all resident money the home is authorized to manage and obtain a signed receipt for such money from the new owner. (Eff. 7/1/95, Register 134)

Authority: AS 47.33.040

AS 47.33.920

**7 AAC 75.320. ANNUAL MONITORING REPORT.** (a) At least once each year, the licensing agency will monitor an assisted living home or will require the home to submit a self-monitoring report to the licensing agency on a form supplied by the agency. The annual report must contain the information requested by the agency, to show that the home continues to comply with AS 47.33 and this chapter.

(b) The failure to submit an annual report as required by the licensing agency, or the submission of a false report, is grounds for issuance of a notice of violation under AS 47.33.530.

(c) The licensing agency may accept the report of a third-party, independent evaluation of an assisted living home, made on behalf of the home, if the report contains substantially the same information required by the licensing agency under this section. (Eff. 7/1/95, Register 134; am 4/6/2002, Register 162)

Authority: AS 47.33.410 AS 47.33.920

**7 AAC 75.330. REFUND OF RENT.** (a) A home's written policy for the refund of advance payments, established in compliance with AS 47.33.030(b), must conform to the following rules:

(1) if a resident terminates a residential services contract by giving notice at least one rental period before the termination is to be effective, the home shall refund an advance rent payment on a prorata basis;

(2) if a resident terminates the contract by giving notice less than one rental period before the termination is to be effective, the home need not refund a payment applicable to the current rental period, but shall prorate the refund of an advance rent payment for a subsequent period; if the home executes a new residential services contract with a new resident in place of the terminating resident, to become effective during the current rental period, the home shall refund the prorata amount of rent applicable to the days of the new contract;

(3) if a resident dies, the home need not refund a payment applicable to the current rental period, but shall prorate the refund of an advance rent payment for a subsequent period; if the home executes a new residential services contract with a new resident in place of the deceased resident, to become effective during the current rental period, the home shall refund the prorata amount of rent applicable to the days of the new contract;

(4) if a home terminates a residential services contract, in accordance with AS 47.33.360, it shall refund an advance rent payment on a prorata basis.

(b) In implementing AS 47.33.030, "advance payment," in the case of rent, does not mean the rent paid at the beginning of a rental period for that period. It means rent advanced for a subsequent rental period. (Eff 7/1/95, Register 134)

Authority: AS 47.33.030

AS 47.33.920

**7 AAC 75.340. NOTIFICATION REQUIREMENTS.** (a) An assisted living home shall provide, on a form supplied by the licensing agency, written notice to the licensing agency, to each affected resident or that resident's representative, and to any service coordinator, as follows:

(1) within 24 hours or on the next business day if

(A) an administrator, a care provider, or an individual who resides in the home, other than a resident receiving services, is arrested or convicted of an offense listed in 7 AAC 75.215; for purposes of notice under this subparagraph, a resident is an affected resident if the resident was a victim of the offense committed, or if the offense was committed on the premises of the assisted living home;

(B) unable to correct a violation constituting an emergency under 7 AAC 75.530 – 7 AAC 75.550;

(C) a resident dies of other than a natural cause; or

(D) physical restraint is used under 7 AAC 75.295; notification under this subparagraph shall be provided only to the resident's representative; notification under this subparagraph need not be made if the resident's assisted living plan indicates that

(i) prenotification is required as established under 7 AAC 75.295(c)(3)(C); or

(ii) notification under (4) of this subsection is sufficient as established under 7 AAC 75.295(d)(1);

(2) within 48 hours after a resident

(A) experiences a medical emergency, serious injury, or accident; notice under this subparagraph must include information as to whether the resident required more than 24 hours of hospitalization;

(B) is involved in assaultive behavior that resulted in the need for medical treatment for the resident or another individual, or that required police intervention; or

(C) is absent from the home for 24 hours or longer without prior notice to the home;

(3) within 72 hours, and not less than 24 hours, before the termination under AS 47.33.360(a)(1) or (a)(4) of a resident's residential services contract with the home;

(4) within five days if physical restraint is used under 7 AAC 75.295 unless a shorter time is provided in a resident's assisted living plan in accordance with 7 AAC 75.295(c); the notice must include the information required by 7 AAC 75.295(d);

(5) at least 14 days before a change in the home's mailing address;

(6) at least 30 days before

(A) a rate increase;

(B) termination under AS 47.33.360(a)(2), (a)(3), (a)(5), or (a)(6) of a resident's residential services contract with the home; notice must be given in the manner required by AS 47.33.360(b); or

(C) amendment of a residential services contract to require an advance payment under AS 47.33.030; and

(7) at least 90 days before

(A) a closure of the home; or

(B) a relocation of the home.

(b) An assisted living home shall request a variance under 7 AAC 75.410 – 7 AAC 75.490 if the home cannot meet an applicable requirement of AS 47.33 or this chapter.

(c) An assisted living home shall notify the licensing agency, in writing, before taking an action that requires

(1) a request for modification when the administrator, individual, or entity named in the current application changes;

(2) a request for licensing agency approval of a modification to increase resident capacity; or

(3) notification because the use of the home will change from exclusive occupancy as an assisted living home to shared use as a business or other enterprise; a notification under this paragraph must include information to show compliance with 7 AAC 75.260(b). (Eff. 4/6/2002, Register 162)

Authority: AS 47.33.080 AS 47.33.410 AS 47.33.920

### ARTICLE 3. VARIANCES.

#### Section

- 410. Grounds for variance
- 415. Temporary variance to admit a child for care in an assisted living home
- 420. Application for variance, generally
- 430. Application for temporary variance
- 440. Evaluation of application for temporary variance
- 450. Grant or denial of temporary variance
- 460. Application for permanent variance
- 470. Evaluation of application for permanent variance
- 480. Grant or denial of permanent variance
- 490. Appeal from denial of variance

**7 AAC 75.410. GROUNDS FOR VARIANCE.** (a) Subject to (b) and (c) of this section, the licensing agency may grant an assisted living home a temporary or permanent variance from a requirement of AS 47.33 or this chapter to allow the home to

(1) meet the goals of AS 47.33 and this chapter in a way that differs from the methods set out in AS 47.33 or this chapter;

(2) promote aging in place to minimize the need for a resident to move from the home;

(3) integrate mentally, developmentally, and physically disabled residents into the community to reach their highest level of functioning; or

(4) encourage the establishment or operation of an assisted living home with fewer than six residents, if compliance with AS 47.33 and this chapter by a home of that size would be unduly burdensome.

(b) The licensing agency will not grant a variance unless the terms of the variance adequately protect the health and safety of the residents of the home.

(c) The licensing agency will not grant a variance

(1) that permits a home to avoid the requirements of

(A) AS 47.33.100 or 7 AAC 75.215, regarding criminal background checks;

or

(B) 7 AAC 75.310, regarding acceptance and management of residents' money; or

(2) for a requirement of AS 47.33 to a home licensed to serve six or more residents. (Eff. 7/1/95, Register 134; am 9/28/2001, Register 159; am 4/6/2002, Register 162)

Authority: AS 47.33.040 AS 47.33.410 AS 47.33.920  
AS 47.33.100

**7 AAC 75.415. TEMPORARY VARIANCE TO ADMIT A CHILD FOR CARE IN AN ASSISTED LIVING HOME.** An assisted living home may apply for a temporary variance to admit a specific child by name for care if the home and a referring agency, in addition to meeting all other requirements of 7 AAC 75.410 – 7 AAC 75.450, develop a plan of safety that

(1) ensures the health and safety of the adults in the home;

(2) ensures the health and safety of the child; and

(3) is approved by the licensing agency, by the child’s representative, and by each resident of the home or the representative for each resident. (Eff. 4/6/2002, Register 162)

Authority: AS 47.33.410 AS 47.33.920

**7 AAC 75.420. APPLICATION FOR VARIANCE, GENERALLY.** (a) An applicant for a variance shall deliver to each resident of the home, or the resident's representative, no later than five days after filing an application for a variance, a

(1) copy or summary of the application; and

(2) notice that states

(A) that the resident or representative has the right to comment on the application for a variance; and

(B) the date by which a resident's comments on the application must be received by the licensing agency.

(b) An applicant for a variance shall provide to the licensing agency a statement indicating that the applicant has complied with (a) of this section.

(c) The licensing agency will consider the comments received from residents or their representatives in determining whether to grant an application for a temporary or permanent variance.

(d) If the licensing agency has approved a plan of correction following a notice of violation under AS 47.33.530, the home may operate under the plan without having to submit an application for a temporary variance. (Eff. 7/1/95, Register 134; 4/6/2002, Register 162)

Authority: AS 47.33.410 AS 47.33.920

**7 AAC 75.430. APPLICATION FOR TEMPORARY VARIANCE.** An assisted living home shall apply for a temporary variance in the manner that the licensing agency directs. The application must state the

(1) statute from which the temporary variance is sought for a home with fewer than six residents;

(2) regulation from which the temporary variance is sought;

(3) reason the home is unable to comply with the statute or regulation, and a description of the way the home is not in compliance;

(4) period for which the variance is requested;

(5) applicant's plan for bringing the home into compliance before the expiration of the temporary variance;

(6) applicant's plan for protecting the health and safety of the residents during the period of the variance;

(7) applicant's assurance that the conditions of the home do not present an imminent danger to residents; and

(8) names of the residents of the home and the names and addresses of any representatives of residents. (Eff. 7/1/95, Register 134)

Authority: AS 47.33.920

**7 AAC 75.440. EVALUATION OF APPLICATION FOR TEMPORARY VARIANCE.** The licensing agency will evaluate each application for a temporary variance by

- (1) investigating the statements in the application;
- (2) inspecting the assisted living home, if appropriate for the type of variance requested; and
- (3) taking one of the following actions:
  - (A) conferring with the assisted living home regarding the application;
  - (B) discussing the application with the residents or the representatives of the residents, to determine whether they believe that granting the variance is in their best interest; or
  - (C) both conferring and discussing under (A) and (B) of this paragraph. (Eff. 7/1/95, Register 134)

Authority: AS 47.33.920

**7 AAC 75.450. GRANT OR DENIAL OF TEMPORARY VARIANCE.** (a) The licensing agency may grant a temporary variance, for a period not to exceed one year, if it determines that the home

- (1) is unable to comply with the provision from which the variance is sought because of circumstances beyond the control of the home;
- (2) has an effective plan for bringing the home into compliance during the term of the temporary variance; and
- (3) is able to adequately provide for the health and safety of the residents of the home during the term of the temporary variance.

(b) The licensing agency will issue a written decision on an application for a temporary variance and will deliver a copy of the decision to the applicant, personally or by certified mail, and to each resident, or representative of the resident, of the home.

(c) A decision by the licensing agency to grant a temporary variance will state the duration of the variance and the steps that the home must take to bring the home into compliance before the variance expires.

(d) An assisted living home shall attach the temporary-variance decision to the license during the period it is in effect and shall make it available with the license to residents, prospective residents, or representatives, service providers, staff, and the general public.

(e) A decision by the licensing agency to deny a temporary variance will state the reasons for the denial. The affected home may reapply for a temporary variance, addressing the agency's stated reasons for the denial. In the alternative, the home may apply for a permanent variance under 7 AAC 75.460. (Eff. 7/1/95, Register 134; am 4/6/2002, Register 162)

Authority: AS 47.33.400 AS 47.33.410 AS 47.33.920

**7 AAC 75.460. APPLICATION FOR PERMANENT VARIANCE.** An assisted living home shall apply for a permanent variance in the manner that the licensing agency directs. The application must state

- (1) the statute from which permanent variance is sought for a home with fewer than six residents;
- (2) the regulation from which the permanent variance is sought;
- (3) the reason the home is unable to comply with the statute or regulation, and a description of the way the home is not in compliance;
- (4) the reason that
  - (A) strict compliance with the statute or regulation will impose a substantial economic, technological, programmatic, legal, or medical hardship on the home or a resident of the home;
  - (B) the variance will improve the quality of life for the home's residents; or
  - (C) the variance will afford a unique treatment opportunity;
- (5) the alternative proposed by the applicant to meet the goal of the statute or regulation from which the variance is sought; and
- (6) how the alternative proposed by the home will adequately protect the health, safety, and welfare of the home's residents. (Eff. 7/1/95, Register 134)

Authority: AS 47.33.920

**7 AAC 75.470. EVALUATION OF APPLICATION FOR PERMANENT VARIANCE.** The licensing agency will evaluate each application for a permanent variance by

- (1) investigating the statements in the application;
- (2) inspecting the assisted living home if appropriate for the type of variance requested;

and

- (3) taking one of the following actions:

(A) conferring with the assisted living home regarding the application;

(B) discussing the application for a variance with the residents or their representatives, to determine whether they believe that granting the variance is in their best interest; or

(C) both conferring and discussing under (A) and (B) of this paragraph. (Eff. 7/1/95, Register 134)

Authority: AS 47.33.920

**7 AAC 75.480. GRANT OR DENIAL OF PERMANENT VARIANCE.** (a) The licensing agency may grant a permanent variance if it determines

- (1) that

(A) strict compliance with the statute or regulation from which the variance is sought cannot be accomplished without a substantial economic, technological, programmatic, legal, or medical hardship;

(B) the variance will improve the quality of life for the home's residents; or

(C) the variance will afford a unique treatment opportunity; and

(2) that the home has an effective plan for meeting the goal of the statute or regulation from which a permanent variance is sought, and that, after discussion with or information from the residents, or the residents' representatives, regarding the request for variance and the plan for meeting the goal of the statute or regulation, the plan adequately protects the health, safety, and welfare of the residents and meets the standards of AS 47.33 and this chapter.

(b) The licensing agency will issue a written decision on an application for a permanent variance and will deliver a copy of the decision to the applicant, personally or by certified mail, and to each resident of the home or the resident's representative.

(c) Upon granting a permanent variance, the licensing agency will issue a new license containing a description of the permanent variance.

(d) A permanent variance remains in effect for the duration of the license and will be incorporated into each license renewal, unless the licensing agency finds good cause to revoke the variance.

(e) The licensing agency may include in its decision to grant a permanent variance reasonable conditions on the variance.

(f) The licensing agency will include in its decision to deny a permanent variance the reasons for the denial. (Eff. 7/1/95, Register 134; am 4/6/2002, Register 162)

Authority: AS 47.33.400 AS 47.33.410 AS 47.33.920

**7 AAC 75.490. APPEAL FROM DENIAL OF VARIANCE.** (a) A decision to deny a variance may be contested as provided in AS 47.33.560 and the Administrative Procedure Act, AS 44.62.

(b) If the applicant decides to contest the denial, the applicant must appeal in writing, within 30 days after receiving the denial, to the director of the division of senior services in the Department of Administration or the director of the division of mental health and developmental disabilities in the Department of Health and Social Services, depending upon which agency denied the application. In the appeal petition, the applicant may request an oral hearing. If an oral hearing is not requested, the appeal will be decided on the basis of review of the original record and whatever additional documents and written argument the applicant presents with the appeal petition. The denial under 7 AAC 75.450 or 7 AAC 75.480 serves as the statement of issues under AS 44.62.370. The decision of the respective director constitutes the decision of the licensing agency for the purposes of reconsideration, under AS 44.62.540, and judicial review, under AS 44.62.560. (Eff. 7/1/95, Register 134)

Authority: AS 47.33.560 AS 47.33.920

## ARTICLE 4. VIOLATIONS.

### Section

- 510. Violation conference
- 520. Report of compliance in response to notice of violation
- 530. Violation constituting an emergency
- 540. Temporary inability to correct a violation constituting an emergency
- 550. Refusal to correct a violation constituting an emergency
- 560. Sanctions based on conviction of administrator
- 570. Sanctions for noncompliance

**7 AAC 75.510. VIOLATION CONFERENCE.** (a) At any time after an assisted living home has received a notice of violation under AS 47.33.530, the home or the licensing agency may request a conference to discuss the violation and the home's options for correcting the violation. A conference, conducted in person or by telephone, will be held no later than seven days after the request is made.

(b) A request for a conference does not extend any other time periods provided for in this chapter. (Eff. 7/1/95, Register 134; am 4/6/2002, Register 162)

Authority: AS 47.33.410 AS 47.33.550 AS 47.33.920  
AS 47.33.540

**7 AAC 75.520. REPORT OF COMPLIANCE IN RESPONSE TO NOTICE OF VIOLATION.** (a) Upon correction of a violation described in a notice of violation, an assisted living home shall, within 10 days after correcting the violation, submit to the licensing agency a written report of compliance. The licensing agency may provide a copy of the report or require the home to provide a copy of the report to each resident of the home or to each resident's representative. The report of compliance must be signed by the administrator of the home and must contain a statement in which the administrator attests to the truth of the contents of the report.

(b) A report of compliance must state how the home corrected each violation listed in the notice of violation.

(c) A report of compliance is a public record. The licensing agency will retain it with the notice of violation to which it refers.

(d) The licensing agency may reinspect the home within 30 days after receiving a report of compliance, upon consideration of the nature of the violation and the terms of correction. (Eff. 7/1/95, Register 134; am 4/6/2002, Register 162)

Authority: AS 47.33.410 AS 47.33.540 AS 47.33.920

**7 AAC 75.530. VIOLATION CONSTITUTING AN EMERGENCY.** (a) If the licensing agency determines that a violation cited by the agency in a notice of violation issued under AS 47.33.530 constitutes an emergency because of imminent threat to the health or safety of residents, the licensing agency

(1) will, in the notice of violation, state the nature of the emergency, the actions required to comply with AS 47.33 and this chapter, and a specific date and time for the home to correct the violation; and

(2) will determine whether the violation has been corrected within the date and time specified in the notice.

(b) An assisted living home subject to a notice of violation constituting an emergency shall post the notice in a conspicuous location at the home until the licensing agency has determined that the violation has been corrected. (Eff. 7/1/95, Register 134)

Authority: AS 47.33.920

**7 AAC 75.540. TEMPORARY INABILITY TO CORRECT A VIOLATION CONSTITUTING AN EMERGENCY.** If an assisted living home is temporarily unable to correct a violation constituting an emergency, the home shall

(1) notify the licensing agency of the inability to correct the violation, submit a plan of correction indicating the time required to complete the correction, and submit a plan for alternative care arrangements to be used by the home until the violation is corrected; and

(2) provide notice as required by 7 AAC 75.340 that an emergency exists and that the violation cannot be corrected immediately to

(A) each resident of the home or the representative of each resident;

(B) the providers of services to or treatment of the residents; and

(C) the residents' service coordinators. (Eff. 7/1/95, Register 134; am 4/6/2002, Register 162)

Authority: AS 47.33.410 AS 47.33.920

**7 AAC 75.550. REFUSAL TO CORRECT A VIOLATION CONSTITUTING AN EMERGENCY.** If an assisted living home refuses, or fails for reasons other than inability, to correct a violation constituting an emergency within the date and time specified in the notice of violation, and the licensing agency determines that the home has the ability to correct the violation, the licensing agency will

(1) impose one or more of the administrative sanctions provided for in AS 47.33.550 and 7 AAC 75.570; and

(2) provide notice as required by 7 AAC 75.340 that an emergency exists and the violation has not been corrected to

(A) each resident of the home or the representative of the resident;

(B) the agencies that provide services or treatment to the residents;

(C) the resident's service coordinators; and

(D) adult protective services in the Department of Administration, division of senior services. (Eff. 7/1/95, Register 134; am 4/6/2002, Register 162)

Authority: AS 47.33.410 AS 47.33.920

**7 AAC 75.560. SANCTIONS BASED ON CONVICTION OF ADMINISTRATOR.** If the criminal conviction of an assisted living home administrator forms the basis of a possible administrative sanction against the home under AS 47.33.550 and 7 AAC 75.570, the licensing agency will take into consideration whether the conviction poses a risk to residents or has an adverse effect on the safety or effective operation of the home. (Eff. 7/1/95, Register 134; am 4/6/2002, Register 162)

Authority: AS 47.33.410 AS 47.33.920

**7 AAC 75.570. SANCTIONS FOR NONCOMPLIANCE.** (a) The licensing agency will consider the following factors in determining an administrative sanction under AS 47.33.550:

(1) the nature and extent of the violation, and the extent to which the health or safety of residents is adversely affected, specifically considering whether the assisted living home's noncompliance

(A) is likely to have only a minor negative impact on a resident;

(B) results in minimal physical, mental, or psychosocial discomfort to a resident;

(C) results in actual harm to a resident as evidenced by compromising a resident's ability to maintain physical, mental, or psychosocial well-being; or

(D) results in a situation in which immediate corrective action is necessary because the noncompliance has caused, or is likely to cause, serious injury, harm, impairment, or death to a resident;

(2) whether the violation substantially limits the home's ability to render adequate care;

(3) whether the home has a history of violations, and, if so, the nature of the violations and whether the previous violations were corrected;

(4) whether the home failed to provide records to the licensing agency upon request;  
and

(5) whether the home has submitted false or fraudulent information to the licensing agency.

(b) If the licensing agency imposes an administrative sanction, the administrator may appeal that action as described in AS 47.33.550. (Eff. 4/6/2002, Register 162)

Authority: AS 47.33.410 AS 47.33.920

## ARTICLE 5. GENERAL PROVISIONS.

### Section

#### 990. Definitions

**7 AAC 75.990. DEFINITIONS.** In AS 47.33 and this chapter, unless the context requires otherwise,

- (1) “activities of daily living” has the meaning given in AS 47.33.990;
- (2) “administrator” has the meaning given in AS 47.33.990;
- (3) “business day” means a day other than Saturday, Sunday, or a state holiday;
- (4) "care provider" means an employee of an assisted living home who provides direct care services to a resident of the home; “care provider” does not include an individual who is an employee of a care-providing entity that is not affiliated with the home;
- (5) “direct care services” means assistance to a resident of an assisted living home with the activities of daily living and the instrumental activities of daily living;
- (6) "emergency shelter" means a home or facility for transient occupants whose occupancy is short-term in nature, not intended to exceed 30 days; "emergency shelter" includes a respite home or facility;
- (7) “food service” means the offering of food to residents of an assisted living home as required by 7 AAC 75.265;
- (8) "home" has the meaning given in AS 47.33.990;
- (9) “instrumental activities of daily living” has the meaning given in AS 47.33.990;
- (10) "licensing agency" has the meaning given in AS 47.33.990;
- (11) "provide" means to furnish, supply, or make available, whether by the owner or an employee of a home or by means of an independent contractor whose services are procured by the home;
- (12) "resident" has the meaning given in AS 47.33.990;

(13) "residential services contract" means an agreement to provide services in an assisted living home as described in AS 47.33.010(a); "residential services contract" does not include an agreement that is solely for rent or for rent and food service, or an agreement between an individual and a friend, personal care attendant, chore provider, or monitor who provides assistance to the individual;

(14) "service coordinator" has the meaning given in AS 47.33.990;

(15) "universal precautions" means the infectious control precautions that are recommended by the United States Department of Health and Human Services, Centers for Disease Control and Prevention to be used to prevent the transmission of blood-borne germs such as human immunodeficiency virus and hepatitis B virus. (Eff. 7/1/95, Register 134; am 4/6/2002, Register 162)

Authority: AS 47.33.410 AS 47.33.920



# **STATUTES**



## ALASKA STATUTES

### TITLE 47. WELFARE, SOCIAL SERVICES AND INSTITUTIONS

#### CHAPTER 47.33. ASSISTED LIVING HOMES

##### Article

Scope; Services; Operation (§§ 47.33.005-47.33.100)  
Residency; Assisted Living Plans (§§ 47.33.200-47.33.240)  
Residency Rights (§§ 47.33.300-47.33.360)  
Licensing (§§ 47.33.400-47.33.430)  
Enforcement (§§ 47.33.500-47.33.570)  
General Provisions (§§ 47.33.910-47.33.990)

**Cross References.**- For transitional provisions, see §§ 16 and 17, ch. 130, SLA 1994 in the Temporary and Special Acts.

**Legislative history reports.**- For governor's transmittal letter on SB 249, from which ch. 130, SLA 1994, which enacted this chapter, derived, see 1994 Senate Journal 2505-2508.

#### ARTICLE 1. SCOPE; SERVICES; OPERATIONS

##### Section

05. Purpose  
10. Applicability  
20. Health-related services allowed in assisted living homes  
30. Advance payments  
40. Residents money  
50. Temporary absence  
60. House Rules  
70. Resident file  
80. Closure or relocation: change of mailing address  
90. Rate increase  
100. Criminal background check for employees

**AS 47.33.005. PURPOSE.** The purpose of this chapter is to:

(1) contribute to the development of a system of care by encouraging the establishment of assisted living homes that provide a homelike environment for elderly persons and persons with a mental or physical disability who need assistance with the activities of daily living;

(2) promote the establishment of homes that help

(A) the elderly to age in place; and

(B) adults with a physical or mental disability to become integrated into the community and to reach their highest level of functioning;

(3) establish standards that will protect residents of assisted living homes, while at the same time promoting an environment that will encourage resident growth and independence, without discouraging the establishment and continued operation of those homes;

(4) require that a resident of an assisted living home have an assisted living plan that identifies the services that will be used to meet the resident's reasonable wants and needs; and

(5) provide a resident of an assisted living home, or the resident's representative, with the opportunity to participate to the fullest extent possible in the design and implementation of the resident's assisted living plan and in any decisions involving the resident's care.

**AS 47.33.010. APPLICABILITY.** (a) Except as provided in (b) of this section, this chapter applies to residential facilities operated in the state that serve three or more adults who are not related to the owner of the facility by blood or marriage by

(1) providing housing and food service to its residents; and

(2) providing or obtaining, or offering to provide or obtain for its residents

(A) assistance with the activities of daily living;

(B) personal assistance; or

(C) a combination of services under (A) and (B) of this paragraph.

(b) Notwithstanding (a) of this section, this chapter does not apply to

(1) a correctional facility;

(2) a facility for treatment of alcoholism that is regulated under AS 47.37;

- (3) an emergency shelter;
- (4) a medical facility, including a nursing home, licensed under AS 18.20;
- (5) a program for runaway minors licensed under AS 47.10; or
- (6) a maternity home licensed under AS 47.35.

**Effect of amendments-** The 1996 amendment, effective September 10, 1996, made a section reference substitution in paragraph (b)(5).

**AS 47.33.020. HEALTH-RELATED SERVICES ALLOWED IN ASSISTED LIVING HOMES.** (a) This chapter does not prohibit the resident of an assisted living home from self-administering the resident's own medications, unless the resident's assisted living plan specifically provides otherwise.

(b) An assisted living home may provide, obtain, or offer to provide or obtain the health-related services described in (c) - (i) of this section. A service under (c) - (i) of this section may only be provided or obtained in addition to, and as a supplemental service to, the long-term provision by the home to the resident of assistance with the activities of daily living or personal assistance.

(c) If self-administration of medications is included in a resident's assisted living plan, the assisted living home may supervise the resident's self-administration of medications, notwithstanding a limitation imposed by AS 08 or by a regulation adopted under AS 08. The supervision may be performed by any home staff person and may include

- (1) reminding a resident to take medication;
- (2) opening a medication container or prepackaged medication for a resident;
- (3) reading a medication label to a resident;
- (4) observing a resident while the resident takes medication;
- (5) checking a resident's self-administered dosage against the label of the medication container;
- (6) reassuring a resident that the resident is taking the dosage as prescribed; and
- (7) directing or guiding, at the request of the resident, the hand of a resident who is administering the resident's own medications.

(d) An assisted living home may provide intermittent nursing services to a resident who does not require 24-hour nursing services and supervision. Intermittent nursing services may be provided only by a nurse licensed under AS 08.68 or by a person to whom a nursing task has been delegated under (e) of this section.

(e) A person who is on the staff of an assisted living home and who is not a nurse licensed under AS 08.68 may perform a nursing task in that home if

(1) the authority to perform that nursing task is delegated to that person by a nurse licensed under AS 08.68; and

(2) that nursing task is specified in regulations adopted by the Board of Nursing as a task that may be delegated.

(f) A resident who needs skilled nursing care may, with the consent of the assisted living home, arrange for that care to be provided in the home by a nurse licensed under AS 08.68 if that arrangement does not interfere with the services provided to other residents.

(g) As part of a plan to avoid transfer of a resident from the home for medical reasons, the home may provide, through the services of a nurse who is licensed under AS 08.68, 24-hour skilled nursing care to the resident for not more than 45 consecutive days.

(h) If a resident has received 24-hour skilled nursing care for the 45-day limit set by (g) of this section, the resident or the resident's representative may elect to have the resident remain in the home without continuation of 24-hour skilled nursing care if the home agrees to retain the resident after

(1) the home and either the resident or the resident's representatives have consulted with the resident's physician;

(2) the home and either the resident or the resident's representative have discussed the consequences and risks involved in the election to remain in the home; and

(3) the portion of the resident's assisted living plan that relates to health-related services has been revised to provide for the resident's health-related needs without the use of 24-hour skilled nursing care, and the revised plan has been reviewed by a registered nurse licensed under AS 08.68 or by the resident's attending physician.

(i) A terminally ill resident may remain in the home if (1) the home and either the resident or the resident's representative agree that the resident may remain in the home; and (2) the resident is under the care of a physician who certifies that the needs of the resident are being met in the home. The time limitation of (g) of this section does not apply in the case of a terminally ill resident.

**AS 47.33.030. ADVANCE PAYMENTS.** (a) An assisted living home may not require a resident or prospective resident of the home or a resident or prospective resident's representative, to make an advance payment to the home except as security for performance of the contract or as advance rent for the immediately following rental period as the rental period is defined in the contract. If a home requires a resident or prospective resident to make an advance payment for security or as advance rent,

(1) the home shall promptly deposit the money in a designated trust account in a financial institution, separate from other money and property of the home;

(2) the home may not represent on a financial statement that the advance payment money is part of the assets of the home;

(3) the advance payment money may be used only for the account of the resident;

(4) the home shall notify the resident or the resident's representative, in writing, of the name and address of the depository in which the advance payment money is being held; and

(5) the home shall provide to the resident or the resident's representative the terms and conditions under which the advance payment money may be withheld by the home.

(b) An assisted living home shall establish a written policy for the refund of unused advance payments in the event of termination of a residential services contract or death of a resident. The policy must provide that a resident is entitled to a prorated refund of the unused portion of an advance payment, less reasonable charges for damages to the home resulting from other than normal use. (§ 1 ch. 130 SLA 1994)

**AS 47.33.040. RESIDENTS' MONEY.** (a) Except for advance payments under AS 47.33.030, an assisted living home may not require a resident of the home to deposit with the home money that belongs to the resident. The provisions of (b) of this section do not apply to money that constitutes an advance payment under AS 47.33.030.

(b) An assisted living home may accept, for safekeeping and management, money that belongs to a resident. The home shall establish a written policy for the management of such money and shall act in a fiduciary capacity with respect to that money, in accordance with regulations adopted by the licensing agency. A home is not required to accept money that belongs to a resident. (§ 1 ch. 130 SLA 1994)

**AS 47.33.050. TEMPORARY ABSENCE.** (a) An assisted living home may agree to reserve space for a resident of the home who is temporarily absent from the home and plans to return to the home. The absent resident, or the resident's representative, shall notify the home in writing if the resident's plan to return to the home changes.

(b) Until the assisted living home receives written notice that an absent resident does not intend to return to the home, the home may charge the resident an agreed-upon daily rate during the resident's absence from the home. (§ 1 ch. 130 SLA 1994)

**AS 47.33.060. HOUSE RULES.** (a) An assisted living home may establish house rules, subject to the limitations provided for under this chapter.

(b) An assisted living home shall give a copy of the house rules to a prospective resident or the prospective resident's representative before the prospective resident enters into a residential services contract with the home, and shall post the house rules in a conspicuous place in the home.

(c) House rules may address various issues, including

(1) times and frequency of use of the telephone;

(2) hours for viewing and volume for listening to television, radio, and other electronic equipment that could disturb other residents;

(3) visitors;

(4) movement of residents in and out of the home;

(5) use of personal property;

(6) use of tobacco and alcohol; and

(7) physical, verbal, or other abuse of other residents or staff.

(d) An assisted living home may not adopt a house rule that unreasonably restricts a right of a resident provided for under this chapter or under any other provision of law. (§ 1 ch. 130 SLA 1994)

**AS 47.33.070. RESIDENT FILES.** (a) An assisted living home shall maintain, for each resident of the home, a file that includes

(1) the name and birth date, and, if provided by the resident, the social security number of the resident;

(2) the name, address, and telephone number of the resident's closest relative, service coordinator, if any, and representative, if any;

(3) a statement of what actions, if any, the resident's representative is authorized to take on the resident's behalf;

(4) a copy of the resident's assisted living plan;

(5) a copy of the residential services contract between the home and the resident;

(6) a notice, as required under AS 47.33.030, regarding the depository in which the resident's advance payment money is being held;

(7) written acknowledgement by the resident or the resident's representative that the resident has received a copy of and has read, or has been read the

(A) resident's rights under AS 47.33.300;

(B) resident's right to pursue a grievance under AS 47.33.340;

(C) resident's right to protection from retaliation under AS 47.33.350;

(D) provisions of AS 47.33.510, regarding immunity; and

(E) home's house rules;

(8) an acknowledgement and agreement relating to home safekeeping and management of the resident's money, as required by AS 47.33.040;

(9) a copy of the resident's living will, if any; and

(10) a copy of a power of attorney or other written designation of an agent, representative, or surrogate by the resident.

(b) An assisted living home shall retain a resident's file for at least one year after the resident terminates residency at the home. (§ 1 ch. 130 SLA 1994)



**AS 47.33.080. CLOSURE OR RELOCATION; CHANGE OF MAILING ADDRESS.**

(a) Not later than 90 days before the voluntary closing or relocation of an assisted living home, the home shall provide written notice of the closure or relocation to the licensing agency, each resident of the home, all representatives of residents, and all service coordinators for residents.

(b) Not later than 14 days before a change of an assisted living home's mailing address, the home shall provide written notice of the change to the licensing agency, each resident of the home, all representatives of residents, and all service coordinators for residents. (§ 1 ch. 130 SLA 1994)

**AS 47.33.090. RATE INCREASE.** An assisted living home may not increase the rate charged for services provided by the home unless the home notifies each resident or the resident's representative of the increase at least 30 days before the increase is to take effect. (§ 1 ch. 130 SLA 1994)

**AS 47.33.100. CRIMINAL BACKGROUND CHECK FOR EMPLOYEES.** (a) An assisted living home may not employ an individual in a paid position that the applicable licensing agency has determined is covered by this section, according to its regulations, unless the individual, before beginning employment.

(1) provides to the home a sworn statement as to whether the individual has been convicted of an offense described in (c) of this section; and

(2) provides to the home the results of a name-check criminal background investigation that was completed by the Department of Public Safety no more than 30 days before the individual is hired; and

(3) submits to the home two full sets of the individual's fingerprints

(b) Within 30 days after employing an individual in a paid position, an assisted living home shall submit to the Department of Public Safety the fingerprints obtained under (a)(3) of this section. The Department of Public Safety shall submit the fingerprints to the Federal Bureau of Investigation for a national criminal history record check. When the results are received, the department shall advise the home of

(1) the data on which the fingerprints background check was completed; and

(2) whether the check shows that the individual has committed an offense described in (c) of this section.

(c) An assisted living home may not hire or retain an employee who has been convicted of an offense listed in the regulations of the applicable licensing agency as being an offense covered by this section. (§ 2 ch 35 SLA 1996)

**Cross references**-For provisions affecting the applicability of this section, see § 4. Ch. 35, SLA 1996 in the Temporary and Special Acts. "(a) Sec. 4 ch. 35-(a) AS 18.20.302(a) and (b), added by sec. 1 of this Act, and AS 47.33.100(a) and (b), added by section. 2 of this Act, apply only to persons hired on or after the effective date of this Act and may not be construed to modify a collective bargaining agreement to in affect on the effective date of this Act.

(b) AS 18.20.302(c), added by sec. 1 of this Act, and AS 47.33.100(c), added by sec. 2 of this Act, do not apply to convictions for offenses that were committed before the effective date of this Act if the offense was committed by a person who was hired before the effective date of this Act. (c)

Notwithstanding (a) and (b) of this section, until the effective date of new regulations adopted to implement this Act, regulations that are in effect on the effective date of this Act remain enforceable to the extent that they pertain to retention or nonretention of all administrator or care provider in an assisted living home based on criminal offenses described in this regulations."

**Effective dates**-Section 2, ch. 35, SLA 1996, which enacted this section, took effect on August 20, 1996.

## **ARTICLE 2. RESIDENCY; ASSISTED LIVING PLANS**

### **Section**

- 200. Commencement of residency
- 210. Residential services contracts
- 220. Assisted living plan required
- 230. Assisted living plan contents; distributions
- 240. Evaluation of assisted living plan

**AS 47.33.200. COMMENCEMENT OF RESIDENCY.** A person may not begin to reside in an assisted living home without that person's consent, or, if the person is not competent, the consent of the person's representative (§ 1 ch. 130 SLA 1994)

**AS 47.33.210. RESIDENTIAL SERVICES CONTRACTS.** (a) A person may not begin residency in an assisted living home unless a representative of the home and either the person or the person's representative signs a residential service contract that complies with the provisions of this section. Upon signing of the contract, the home shall give the resident and the resident's representative, if any, a copy of the contract and place a copy of the contract in the resident's file

(b) A residential services contract must

(1) specifically describe the services and accommodations to be provided by the assisted living home;

(2) set out the rates charged by the home;

(3) specifically describe the rights, duties, and obligations of the resident, other than those specified in this chapter;

(4) set out the policies and procedures for termination of the contract as provided for in this chapter;

(5) state the amount and purpose of any advance payments required by the home; and

(6) set out the home's policy for refund of advance payments in the event of termination of the contract or death of the resident. (§ 1 ch. 130 SLA 1994)

**AS 47.33.220. ASSISTED LIVING PLAN REQUIRED.** An assisted living home shall ensure that an assisted living plan for a resident of the home is developed, and approved by the resident or the resident's representative, within 30 days after the resident was admitted to the home. The assisted living plan must be developed by the resident or the resident's representative with participation from

(1) the resident's service coordinator, if any;

(2) representatives of providers of services to the resident; and

(3) the administrator of the home (§ 1 ch. 130 SLA 1994)

**AS 47.33.230. ASSISTED LIVING PLAN CONTENTS; DISTRIBUTION.** (a) An assisted living plan for a resident of an assisted living home must

(1) promote the resident's participation in the community and increased independence through training and support, in order to provide the resident with an environment suited to the resident's needs and best interests;

(2) recognize the responsibility and right of the resident or the resident's representative to evaluate and choose, after discussion with all relevant parties, including the home, the risks associated with each option when making decisions pertaining to the resident's abilities, preferences, and service needs; and

(3) recognize the right of the home to evaluate and to either consent or refuse to accept the resident's choice of risks under (2) of this subsection.

(b) An assisted living plan for a resident must identify and describe

(1) the resident's specific strengths and limitations in performing the activities of daily living;

(2) any physical disabilities and impairments, and the aspects of the resident's medical condition, general health, emotional health, mental health, or other conditions or problems that are relevant to the services needed by the resident;

(3) the resident's preference in roommates, living environment, food, recreational activities, religious affiliation, and relationships and visitation with friends, family members, and others;

(4) specific activities of daily living with which the resident needs assistance;

(5) how assistance with the activities of daily living will be provided or arranged for by the home or the resident;

(6) the frequency of the resident's training for independent living, if habilitation is part of the plan;

(7) the resident's need for personal assistance and how those needs will be met by home staff or another service provider from the community;

(8) the resident's need for health-related services and how that need will be met;

(9) the resident's reasonable wants and the services that will be used to meet those wants.

(c) If the assisted living home provides or arranges for the provision of health-related services to a resident, the home shall ensure that a

(1) registered nurse licensed under AS 08.68 reviews the portion of an assisted living plan that describes how the resident's need for health-related services will be met; and

(2) physician's statement about the resident is included in the plan.

(d) A resident's assisted living plan must be in writing, in language that can be understood by the resident.

(e) If a person's reasonable wants and needs can be met by a particular assisted living home and a decision is made to enter into a residential services contract between the person and the home, the resident's assisted living plan shall be approved, dated, and signed by the administrator of that home and either the resident or the resident's representative.

(f) The assisted living plan shall be retained by the home in the resident's file. The home shall provide a copy of the plan to the resident and to the resident's representative if any. (§ 1 ch. 130 SLA 1994)

**AS 47.33.240. EVALUATION OF ASSISTED LIVING PLAN.** (a) An assisted living home resident or the resident's representative, and the home administrator or the administrator's designee, shall evaluate the resident's assisted living plan, determine whether the plan is meeting the resident's reasonable wants and needs, and revise the plan if necessary. At the request of the resident or the resident's representative, the resident's service coordinator, if any, and family members may participate in the evaluation. If the assisted living home provides or arranges for the provision of health-related services to a resident, the resident's evaluation shall be done at three-month intervals. If the assisted living home does not provide or arrange to provide health-related services to a resident, the resident's evaluation shall be done at least at one-year intervals.

(b) The administrator or the administrator's designee shall

- (1) document the results of the evaluation in the resident's record;
- (2) sign and date any revisions to the resident's assisted living plan;
- (3) place a copy of the revisions in the resident's file; and
- (4) provide the resident and the resident's representative, if any, with a copy of the revisions. (§ 1 ch. 130 SLA 1994)

## ARTICLE 3. RESIDENT'S RIGHTS

### Section

- 300. Resident's Rights
- 310. Notice of Rights
- 320. Access to assisted living home
- 330. Prohibitions
- 340. Resident grievance procedure
- 350. Retaliation against home resident
- 360. Involuntary termination of contract

**AS 47.33.300. RESIDENTS' RIGHTS.** (a) Subject to (c) of this section, a resident of an assisted living home has the right to

(1) live in a safe and sanitary environment;

(2) be treated with consideration and respect for personal dignity, individuality, and the need for privacy, including privacy in

(A) a medical examination or health-related consultation;

(B) the resident's room or portion of a room;

(C) bathing and toileting, except for any assistance in those activities that is specified in the resident's assisted living plan; and

(D) the maintenance of personal possessions and the right to keep at least one cabinet or drawer locked;

(3) possess and use personal clothing and other personal property, unless the home can demonstrate that the possession or use of certain personal property would be unsafe or an infringement of the rights of other residents;

(4) engage in private communications, including

(A) receiving and sending unopened correspondence;

(B) having access to a telephone, or having a private telephone at the resident's own expense; and

(C) visiting with persons of the resident's choice, subject to visiting hours established by the home;

(5) close the door of the resident's room at any time, including during visits in the room with guests or other residents;

(6) at the resident's own expense unless otherwise provided in the residential services contract, participate in and benefit from community services and activities to achieve the highest possible level of independence, autonomy, and interaction with the community;

(7) manage the resident's own money;

(8) participate in the development of the resident's assisted living plan;

(9) share a room with a spouse if both are residents of the home;

(10) have a reasonable opportunity to exercise and to go outdoors at regular and frequent intervals, when weather permits;

(11) exercise civil and religious liberties;

(12) have access to adequate and appropriate health care and health care providers of the resident's own choosing, consistent with established and recognized standards within the community;

(13) self-administer the resident's own medications, unless specifically provided otherwise in the resident's assisted living plan;

(14) receive meals that are consistent with religious or health-related restrictions;

(15) receive the prior notice of relocation of the home or the home's intent to terminate the residential services contract of the resident required by AS 47.33.080 and 47.33.360, respectively;

(16) present to the home grievances and recommendations for change in the policies, procedures, or services of the home;

(17) at the resident's own expense unless otherwise provided in the residential services contract, have access to and participate in advocacy or special interest groups;

(18) at the resident's own expense unless otherwise provided in the residential services contract, intervene or participate in, or refrain from participating in, adjudicatory proceedings held under this chapter, unless provided otherwise by other law; and

(19) reasonable access to home files relating to the resident, subject to the constitutional right of privacy of other residents of the home.

(b) An assisted living home may not establish or apply a policy, procedure, or rule that is inconsistent with or contrary to a right provided by this section or by other law.

(c) The rights set out in (a)(3), (4), (7), (12), and (14) of this section do not create an obligation for an assisted living home to expend money for the specified rights unless otherwise provided in the residential services contract. (§ 1 ch. 130 SLA 1994)

**AS 47.33.310. NOTICE OF RIGHTS.** (a) At the time a person begins residency in an assisted living home, the home shall provide the resident and the resident's representative, if any, with a copy of the rights set out in AS 47.33.300. The home shall obtain from the resident or the resident's representative a signed and dated acknowledgement stating that the resident has read or been read the rights, understands the rights, and has had any questions about the rights answered by the home.

(b) An assisted living home shall post in a prominent place in the home

(1) a copy of the rights set out in AS 47.33.300;

(2) the name, address, and phone number of the long term care ombudsman hired under AS 44.21.231 and, if relevant to residents, of the advocacy agency for persons with a developmental disability or mental illness;

(3) the telephone number of an information or referral service for vulnerable adults; and

(4) a copy of the grievance procedure established under AS 47.33.340.  
(§ 1 ch. 130 SLA 1994)

**AS 47.33.320. ACCESS TO ASSISTED LIVING HOME.** An assisted living home shall allow advocates and the representatives of community legal services programs access to the home at reasonable times to, subject to the resident's consent,

(1) visit with a resident of the home and make personal, social, and legal services available to the resident;

(2) distribute educational and informational materials to advise a resident or resident's representative of applicable rights; and

(3) assist a resident or a resident's representative in asserting legal rights or claims.  
(§ 1 ch. 130 SLA 1994)

**AS 47.33.330. PROHIBITIONS.** (a) An assisted living home, including staff of the home, may not

(1) deprive a resident of the home of the rights, benefits, or privileges guaranteed to the resident by law;

(2) enter a resident's room without first obtaining permission, except

(A) during regular, previously announced, fire, sanitation, or other licensing inspections;

(B) when a condition or situation presents an imminent danger;

(C) as required by the resident's assisted living plan to provide services specified in the residential services contract; or

(D) for other vital health or safety reasons;

(3) impose religious beliefs or practices upon a resident or require a resident to attend religious services;

(4) place a resident under physical restraint unless the resident's own actions present an imminent danger to the resident or others;

(5) place a resident under chemical restraint; this paragraph does not prevent a resident from voluntarily taking tranquilizers, or other medication, prescribed by a licensed physician;

(6) compel a resident to perform services for the home, except as contracted for by the resident and the home or as provided for in the resident's assisted living plan; or

(7) restrain, interfere with, coerce, discriminate against, or retaliate against a resident for asserting a right specified by this chapter or by other law.

(b) An assisted living home may not physically restrain a resident unless the home has a written physical restraint procedure that has been approved by the licensing agency. The home shall terminate the physical restraint as soon as the resident no longer presents an imminent danger.

(c) An owner, administrator, employee, or agent of an assisted living home may not act as a representative of a resident. (§ 1 ch. 130 SLA 1994)

**AS 47.33.340. RESIDENT GRIEVANCE PROCEDURE.** (a) An assisted living home shall establish a written grievance procedure for handling complaints of residents of the home. At the time a person begins residency in an assisted living home, the home shall give a copy of the grievance procedure to the resident and the resident's representative, if any.

(b) The grievance procedure established under this section must provide that a resident and the resident's representative have the right to

(1) present both a written and an oral explanation of the resident's grievance;

(2) have an advocate of the resident's choice, and the resident's representative, if any, attend meetings concerning the resident's grievance; and

(3) be notified in writing, within 30 days after the filing of the grievance, of the final decision of the home regarding the grievance. (§ 1 ch. 130 SLA 1994)

**AS 47.33.350. RETALIATION AGAINST HOME RESIDENT.** (a) An assisted living home may not take retaliatory action against a resident of that home if the resident or the resident's representative

(1) exercises a right provided by this chapter or by other law;

(2) appears as a witness, or refuses to appear as a witness, in an adjudicatory proceeding regarding the home;

(3) files a civil action alleging a violation of this chapter; or

(4) claims a violation of this chapter before a state or federal agency having jurisdiction over the home or its employees.

(b) Termination of a resident's residential services contract by an assisted living home within 60 days after the resident engages in an activity described in (a) of this section creates a rebuttable presumption that the termination was retaliatory.

(c) At the time, or before, a person begins residency in an assisted living home, the home shall give the resident and the resident's representative, if any, written notice of the protection from retaliation provided under this section. (§ 1 ch. 130 SLA 1994)

**AS 47.33.360. INVOLUNTARY TERMINATION OF CONTRACT.** (a) An assisted living home may not terminate a residential services contract with a resident of the home against the resident's will, except

(1) for medical reasons;

(2) for engaging in a documented pattern of conduct that is harmful to the resident, other residents, or staff of the home;

(3) for violation of the terms of the residential services contract, including failure to pay costs incurred under the contract;

(4) when emergency transfer out of the home is ordered by the resident's physician;

(5) when the home is closing; or

(6) when the home can no longer provide or arrange for services in accordance with the resident's needs and the resident's assisted living plan.

(b) At least 30 days before terminating the residential services contract with a resident under (a)(2), (3), (5), or (6) of this section, the assisted living home shall provide written notice of the proposed contract termination to the resident or the resident's representative and to the resident's service coordinator if any. The notice must state the

(1) basis for the termination; and

(2) resident's right to contest the termination in the manner provided in the contract, which must include an offer by the home to participate in a case conference as described in (c) of this section.

(c) Before terminating the residential services contract with a resident under (a)(2), (3), (5), or (6) of this section, the assisted living home shall participate in a case conference if requested by the resident or the resident's representative. The case conference must include the resident, the resident's representative, if any, the resident's advocate, if any, the resident's service coordinator, if any, the home administrator, and appropriate care providers who may discuss the appropriateness of the contract termination.

(d) If a home terminates the residential services contract with a resident under this section, the home shall cooperate with the resident, the resident's service coordinator, if any, and the resident's representative, if any, in making arrangements to relocate the resident. (§ 1 ch. 130 SLA 1994)

## ARTICLE 4. LICENSING

### Section

400. License required

410. Licensing agency

420. Standard forms

430. Authority of state agencies to impose additional requirements

**AS 47.33.400. LICENSE REQUIRED.** (a) A person may not maintain or operate an assisted living home that is subject to this chapter unless that home is licensed under this chapter.

(b) A person may not use the term "assisted living home" or "assisted living facility" in connection with services to be provided or obtained unless the home or facility is governed by this chapter, as described in AS 47.33.010 .

(c) To be licensed as an assisted living home, a facility must meet the licensure requirements of this chapter and of regulations adopted under this chapter.

(d) Nothing in this chapter prohibits an assisted living home that is licensed under this chapter and that serves five or fewer residents from using the term "adult foster home" or "assisted living foster home" in connection with that facility. (§ 1ch. 130 SLA 1994)

**AS 47.33.410. LICENSING AGENCY.** (a) The Department of Health and Social Services is the licensing agency responsible for licensing assisted living homes that will be providing care primarily to persons with a mental or developmental disability.

(b) The Department of Administration is the licensing agency responsible for licensing assisted living homes that will be providing care primarily to persons who have a physical disability, who are elderly, or who suffer from dementia, but who are not diagnosed as chronically mentally ill.

(c) The Department of Administration and the Department of Health and Social Services shall confer and jointly determine, in accordance with regulations, the appropriate licensing agency for an assisted living home

(1) that, at the time of application for a license, appears to meet the criteria in both (a) and (b) of this section;

(2) for which, at the time of application for a license, the appropriate licensing agency is not clear under the criteria in (a) and (b) of this section;

(3) that, during the term of a license issued under this chapter, wishes to relinquish the license issued by one licensing agency and replace the license with one issued by the other licensing agency; or

(4) that, at the time of the assisted living home's license renewal under this chapter, is described in (1), (2), or (3) of this subsection.

(d) A licensing agency shall

(1) establish, by regulation, requirements and standards for licensure and renewal of a license under this chapter;

(2) license assisted living homes in accordance with this chapter and regulations adopted under this chapter;

(3) investigate license applicants and licensees for compliance with this chapter; and

(4) enforce the standards established by this chapter and regulations adopted under this chapter.

(e) The Department of Administration and the Department of Health and Social Services shall jointly adopt regulations to implement the provisions of (c) of this section, including regulations providing procedures and standards for determining the appropriate licensing agency for an assisted living home and for relinquishing and replacing a license issued under this chapter.

(f) Under procedures and standards of operation established by the licensing agency by regulation, a licensing agency may contract with private or municipal agencies to investigate and make recommendations to the licensing agency for the licensing of assisted living homes. (§ 1ch. 130 SLA 1994)

**AS 47.33.420. STANDARD FORMS.** The Department of Health and Social Services and the Department of Administration shall cooperatively develop standard forms that assisted living homes may use to comply with the requirements of this chapter. (§ 1 ch. 130 SLA 1994)

**AS 47.33.430. AUTHORITY OF STATE AGENCIES TO IMPOSE ADDITIONAL REQUIREMENTS.** The provisions of this chapter do not preclude a state agency from imposing additional requirements or standards on an assisted living home in order for the home to receive state or federal payment for services. (§ 1 ch. 130 SLA 1994)

## ARTICLE 5. ENFORCEMENT

### Section

- 500. Complaint
- 510. Immunity
- 520. Investigation
- 530. Notice of violation
- 540. Report of compliance
- 550. Administrative sanctions
- 560. Administrative procedures
- 570. Criminal penalty

**AS 47.33.500. COMPLAINT.** (a) A person who believes that a provision of this chapter or of a regulation adopted under this chapter has been violated may file a complaint with the appropriate licensing agency.

(b) The licensing agency shall investigate a complaint filed under this section unless the agency reasonably concludes that the complaint is without merit.

(c) Unless disclosure is required by court order, the licensing agency may not disclose the identity of a complainant, or of a resident on whose behalf a complaint is filed, without the consent of the complainant or the resident or the resident's representative. (§ 1 ch. 130 SLA 1994)

**AS 47.33.510. IMMUNITY.** A person who files a complaint concerning a suspected violation of this chapter or of a regulation adopted under this chapter, or who testifies in an administrative or judicial proceeding arising from a complaint concerning a suspected violation of this chapter or of a regulation adopted under this chapter, is immune from civil liability for the filing or testifying unless the person acted in bad faith or with malicious purpose. (§ 1 ch. 130 SLA 1994)

**AS 47.33.520. INVESTIGATION.** (a) A licensing agency may investigate an assisted living home at any time to determine whether the home is in compliance with this chapter and regulations adopted under this chapter.

(b) An assisted living home that is the subject of an investigation shall give the licensing agency access to

- (1) the home;
- (2) all records relating to the operation of the home that are relevant to the investigation;
- (3) all resident files; and

(4) the residents and employees of the home.

(c) The licensing agency shall prepare a written report of the investigation that summarizes its findings, and shall provide a copy of the report to the assisted living home that is the subject of the investigation and to the complainant, if any, if the complainant requests a copy.

(d) The assisted living home may submit to the licensing agency a written response to the investigation report. The licensing agency shall retain the home's response with the record of the complaint.

(e) Except as otherwise provided in AS 47.33.500(c),

(1) a completed investigation report and a response from a home are public records;  
and

(2) a final report on deficiencies and approved plans of correction that is prepared by a licensing agency after a licensure inspection or investigation of a home it licenses under this chapter shall be made available by the licensing agency to the public within 14 calendar days after the final report is made available to the home being reviewed.

(f) If the licensing agency's investigation shows reasonable cause to believe that a certified nurse aide has committed abuse, neglect, or misappropriation of property, the licensing agency shall report the matter to the Board of Nursing. (§ 1 ch. 130 SLA 1994; am § 16 ch. 98, SLA 1998; am § 4 ch. 99, SLA 1999)

**Effect of amendments-** The 1998 amendment added (f). The 1999 amendment changed the wording of (e)(1) and added (e)(2).

**AS 47.33.530. NOTICE OF VIOLATION.** (a) If the licensing agency determines that an assisted living home has violated a provision of this chapter or of a regulation adopted under this chapter, the licensing agency shall prepare a written notice of violation that contains

(1) a description of the violation;

(2) a citation to the statute or regulation that has been violated;

(3) an order requiring the home to correct the violation by the time specified in the order, not to exceed 90 days after the date the home receives the notice of violation;

(4) a statement of the requirement for filing a report of compliance under AS 47.33.540;

(5) notice of the sanctions that may be imposed under this chapter if the home fails to timely file a report of compliance or fails to correct the violation; and

(6) notice of the right to apply for a variance, if applicable under licensing agency regulations.

(b) The licensing agency shall serve the notice of violation on the home in person, or by certified mail, return receipt requested. (§ 1ch. 130 SLA 1994)

**AS 47.33.540. REPORT OF COMPLIANCE.** (a) After correcting a violation described in a notice of violation served under AS 47.33.530, an assisted living home shall submit to the licensing agency a report of compliance regarding the correction.

(b) Each licensing agency shall adopt regulations specifying the contents of and establishing procedures for reports of compliance, including the time period for submission to the licensing agency under (a) of this section. (§ 1ch. 130 SLA 1994)

**AS 47.33.550. ADMINISTRATIVE SANCTIONS.** (a) A licensing agency may revoke an assisted living home license, deny renewal of an assisted living home license, suspend operations of an assisted living home, suspend the ability of an assisted living home to take in new residents, place conditions on the ability of an assisted living home to take in new residents, restrict the type of care that an assisted living home may provide to residents, or assess an administrative fine, as the agency considers appropriate, on one or more of the following grounds:

(1) a violation of a provision of this chapter, a regulation adopted under this chapter, an order in a notice of violation issued under this chapter, or a term of a license issued under this chapter;

(2) a criminal conviction of an administrator of an assisted living home if the conviction is

(A) for an offense involving a resident of the home;

(B) a felony; or

(C) a misdemeanor involving alcohol, a controlled substance, an imitation controlled substance, or physical or sexual abuse;

(3) obtaining, retaining, or attempting to obtain or retain a license under this chapter by fraud or misrepresentation.

(b) An administrative fine assessed under this section may not exceed \$500 a day for each day that a violation continues, and may not exceed a total of \$5,000 for a violation.

(c) Before imposing an administrative sanction under (a) of this section, the licensing agency shall give the assisted living home a written notice of the imposition of administrative sanction. The notice must contain a form for requesting a hearing under (d) of this section, and must describe

- (1) each sanction to be imposed;
- (2) the violation that is the basis of each sanction; and
- (3) the home's right to request a hearing to contest the sanctions.

(d) An assisted living home may contest a licensing agency's decision to impose an administrative sanction by filing a written request for a hearing, on the form provided by the licensing agency, no later than 10 days after receipt of the notice of administrative sanction.

(e) Unless an administrative sanction is related to a violation that presents an imminent danger to the health or safety of the residents of an assisted living home, the sanction may not be imposed until the

(1) time period for requesting a hearing under (d) of this section has passed without a hearing being requested; or

(2) licensing agency renders a final decision following a hearing requested under (d) of this section.

(f) If an assisted living home requests a hearing under (d) of this section the hearing shall be held within 60 days after the licensing agency receives the request. The department's decision following a hearing under this section is a final administrative order.

(g) If an assisted living home does not request a hearing under (d) of this section, the licensing agency's notice of administrative sanction constitutes a final administrative order that the licensing agency may seek the court's assistance in enforcing.

(h) A licensing agency shall provide notice of the agency's final action regarding imposition of an administrative sanction on an assisted living home to

- (1) each resident of the home;
- (2) the agencies that provide treatment to the residents;
- (3) the residents' service coordinators; and
- (4) adult protective services.

(i) Imposition of an administrative sanction under this section does not preclude imposition of a criminal penalty under AS 47.33.570. (§ 1ch. 130 SLA 1994)

**AS 47.33.560. ADMINISTRATIVE PROCEDURES.** (a) Except as otherwise provided in this chapter, administrative proceedings involving the denial, limitation, suspension, or revocation of a license or the assessment of an administrative fine under this chapter shall be conducted under AS 44.62 (Administrative Procedure Act).

(b) An administrative hearing held under this chapter shall be open to the public unless the hearing officer determines that the hearing should be closed to protect the privacy of a resident of an assisted living home.

(c) A resident may intervene as a party in an adjudicatory proceeding held under this chapter if the home in which that person resides is a party to the proceeding.

(d) At least 30 days before a hearing is held under this chapter, the licensing agency shall give notice of the hearing to each resident of the assisted living home that is the subject of the hearing. (§ 1ch. 130 SLA 1994)

**AS 47.33.570. CRIMINAL PENALTY.** A person who violates AS 47.33.400(a) or (b) is guilty of a class B misdemeanor. (§ 1ch. 130 SLA 1994)

## ARTICLE 6. GENERAL PROVISIONS

### Section

910. Fees

920. Regulations

930. Definitions

**AS 47.33.910. FEES.** A licensing agency may charge and collect fees for application and licensure under this chapter. (§ 1ch. 130 SLA 1994)

**AS 47.33.920. REGULATIONS.** The commissioner of health and social services and the commissioner of administration each may adopt regulations to carry out the provisions of this chapter, including regulations regarding licensure and renewal requirements, license application and renewal procedures; application and license fees; types, duration, renewal, and transferability of licenses; staffing and home operation standards; and variances to licensure and operating standards. Regulations adopted under this chapter may provide for the waiver or modification of the requirements of this chapter for homes with fewer than six residents, except that the regulations may not provide for waiver or modification of the requirements of AS 47.33.100.  
(§ 1 ch. 130 SLA 1994; am § 3 ch. 35 SLA 1996)

**Effect of amendments-** The 1996 amendment, effective August 20,1996, added the exception at the end of the section.

**AS 47.33.990. DEFINITIONS.** In this chapter,

(1) "activities of daily living" means walking, eating, dressing, bathing, toileting, and transfer between a bed and a chair;

(2) "administrator" means a person who has general administrative charge and oversight of an assisted living home;

(3) "adult" means a person 18 years of age or older who is not a ward of the state under AS 47.10.080;

(4) "advocate" means a public or private officer, agency, or organization designated by federal or state statute, or a state plan developed under a federal or state statute, to represent the interests of and speak on behalf of a resident of an assisted living home;

(5) "aging in place" means choosing to remain in a familiar living environment and manage the risks associated with the physical or mental decline that can occur with increasing age;

(6) "assisted living home," means a residential facility to which this chapter applies, as described in AS 47.33.010;

(7) "assisted living plan" means a written description of

(A) a person's functional capabilities;

(B) the person's needs and preferences for assistance with the activities of daily living; and

(C) the services to be provided to meet the person's reasonable wants and needs;

(8) "controlled substance" has the meaning given in AS 11.71.900;

(9) "health-related services" means services described in AS 47.33.020(c) - (i);

(10) "home" means an assisted living home;

(11) "imitation controlled substance" has the meaning given in AS 11.73.099;

(12) "imminent danger" means a danger that could reasonably be expected to cause death or serious physical harm to the resident's self, to the staff of a home, or to others;

(13) "instrumental activities of daily living" means doing laundry, cleaning of living areas, food preparation, managing money and conducting business affairs, using public transportation, writing letters, obtaining appointments, using the telephone, and engaging in recreational or leisure activities;

(14) "licensing agency" means the state agency given authority under AS 47.33.410 to license an assisted living home;

(15) "personal assistance" means the provision by an assisted living home of one or more of the following personal services to a resident of the home:

(A) assisting a resident in obtaining supportive services as provided for in the resident's assisted living plan;

(B) assisting a resident in obtaining instrumental activities of daily living, as provided for in the resident's assisted living plan;

(C) being aware of a resident's general whereabouts while the resident is traveling independently in the community;

(D) monitoring a resident's activities while on the home premises to provide for the resident's and others' safety and well being;

(16) "person with a developmental disability" has the meaning given in AS 47.80.900;

(17) "physician's statement" means a written statement by a person's primary physician that includes a

(A) medical history and physical, not older than six months, of the person;

(B) listing of the person's complete current medicine regimen; and

(C) statement of current therapy regimen necessary to maintain or increase the person's functioning, mobility, or independence;

(18) "resident" means an adult who has signed a residential service contract with and resides in an assisted living home;

(19) "representative" means a guardian, conservator, attorney in fact, or other person designated by a court, or in writing by a legally competent person, to act on behalf of that person;

(20) "service coordinator" means a person who is responsible for

(A) coordinating the services of community agencies that provide services to a resident of an assisted living home;

(B) participating in inter-agency case management for a resident; or

(C) planning for the placement of a person in an assisted living home;

(21) "supportive services" means recreational and leisure activities, transportation, social services, legal services, financial management services, educational and vocational services, medical, dental, and other health care services, habilitation or rehabilitation services, respite services, case management, day care, and other services required to meet a resident's needs;

(22) "terminally ill resident" means an ill resident who has a medical prognosis, certified in writing by the resident's attending physician, that the life expectancy of the resident is no more than six months if the illness runs its normal course. (§ 1ch. 130 SLA 1994; am§ 50 ch. 59 SLA 1996)

**Effect of amendments-**The 1996 amendments, effective September 10, 1996, made section reference substitutions in paragraph (3).

# APPENDICES



**ALASKA DEPARTMENT OF ADMINISTRATION  
AND  
ALASKA DEPARTMENT OF HEALTH & SOCIAL SERVICES**



**BARRIER CRIMES**

**BARRING EMPLOYMENT  
IN AN ASSISTED LIVING HOME**

Under the Assisted Living Homes statutes (AS 47.33), AS 47.33.100 prohibits an assisted living home from hiring or retaining a person who has been convicted of one or more crimes listed in 7 AAC 75.215. This statute requires a person applying for a job at an assisted living home to provide (1) a sworn statement regarding whether they have been convicted of one or more of these crimes, (2) the results of a name-check criminal background investigation that was completed by the Department of Public Safety within 30 days before hiring, and (3) two full sets of fingerprints. The statute requires the assisted living home to submit the fingerprints to the Department of Public Safety within 30 days after employing a person for an FBI national criminal history record check.

To help assisted living homes comply with AS 47.33.100 and 7 AAC 75.215, the pertinent crimes are listed in this document under the categories of absolute barrier crimes, 10-year barrier crimes, 5-year barrier crimes, and 2-year barrier crimes.

If an assisted living home learns that a person applying for a job at the home has been convicted of a barrier crime, the statute and the regulation prohibit the home from hiring that person if it is an absolute barrier crime or if the appropriate amount of time has not passed on the other listed crimes. If an assisted living home learns that an employee of the home has been convicted of a crime listed in 7 AAC 75.215 before, on, or after September 28, 2001, the statute and the regulation prohibit the home from retaining that person if it is an absolute barrier crime or if the appropriate amount of time has not passed on the other listed crimes. (The only exception is a conviction of an offense committed before August 20, 1996 by an employee hired before August 20, 1996.)

AS 47.33.100 and 7 AAC 75.215 take precedence over this document. Failure to list a crime covered by AS 47.33.100 and 7 AAC 75.215 in this document does not in any way change the force and effect of AS 47.33.100 and 7 AAC 75.215.

## **ABSOLUTE BARRIER CRIMES**

### **UNCLASSIFIED FELONIES**

(ABSOLUTE BARRIER)

**AS 11.31.100 – Attempt [to commit a crime]** (if the crime attempted is murder in the first degree)

**AS 11.31.110 – Solicitation [to commit a crime]** (if the crime solicited is murder in the first degree)

**AS 11.31.120 – Conspiracy** (if the object of the conspiracy is murder in the first degree)

**AS 11.41.100 - Murder in the first degree**

**AS 11.41.110 - Murder in the second degree**

**AS 11.41.300 – Kidnapping (unless reduced to a Class A felony as described below)**

**AS 11.41.410 - Sexual assault in the first degree**

**AS 11.41.434 - Sexual abuse of a minor in the first degree**

**AS 11.71.010 - Misconduct involving a controlled substance in the first degree**

## **ABSOLUTE BARRIER CRIMES (continued)**

### **CLASS A FELONIES<sup>3</sup>**

(ABSOLUTE BARRIER)

**AS 11.31.100 – Attempt [to commit a crime]** (If the crime attempted is an unclassified felony other than murder in the first degree, or if the crime attempted is an unclassified crime described in state law other than AS 11 and is punishable by an indeterminate or life term.)

**AS 11.31.110 – Solicitation [to commit a crime]** (If the crime solicited is an unclassified felony other than murder in the first degree, or if the crime solicited is an unclassified crime described in state law other than AS 11 and is punishable by an indeterminate or life term.)

**AS 11.31.120 – Conspiracy** (If the object of the conspiracy is a crime punishable as an unclassified felony other than murder in the first degree)

**AS 11.41.120 - Manslaughter**

**AS 11.41.200 - Assault in the first degree**

**AS 11.41.300 – Kidnapping (if reduced from an unclassified felony)**

(If the defendant voluntarily caused the release of the victim alive in a safe place before arrest, or within 24 hours after arrest, without having caused serious physical injury to the victim and without having engaged in certain other conduct)

**AS 11.41.500 - Robbery in the first degree**

**AS 11.46.400 - Arson in the first degree**

**AS 11.56.300 - Escape in the first degree**

**AS 11.61.190. Misconduct involving weapons in the first degree**

**AS 11.61.240 - Criminal possession of explosives** (If the crime intended is murder in any degree or kidnapping)

**AS 11.66.110(a)(2) - Promoting prostitution in the first degree**

**AS 11.71.020 - Misconduct involving a controlled substance in the second degree**

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<sup>3</sup> Class A felonies characteristically involve conduct resulting in serious physical injury or a substantial risk of serious physical injury to a person.

## **ABSOLUTE BARRIER CRIMES (continued)**

### **CLASS B FELONIES<sup>4</sup>**

(ABSOLUTE BARRIER)

**AS 11.41.130. Criminally negligent homicide**

**AS 11.41.210. Assault in the second degree**

**AS 11.41.420. Sexual assault in the second degree**

**AS 11.41.436. Sexual abuse of a minor in the second degree**

**AS 11.41.455. Unlawful exploitation of a minor**

**AS 11.41.510. Robbery in the second degree**

**AS 11.41.520. Extortion**

**AS 11.46.410. Arson in the second degree**

### **CLASS C FELONIES<sup>5</sup>**

(ABSOLUTE BARRIER)

[Some are listed under “Offenses Against the Family and Vulnerable Adults”  
and “Other Absolute Barrier Crimes” in this document]

**AS 11.41.220. Assault in the third degree**

**AS 11.41.260. Stalking in the first degree**

**AS 11.41.320. Custodial interference in the first degree**

**AS 11.41.425. Sexual assault in the third degree**

**AS 11.41.438. Sexual abuse of a minor in the third degree**

**AS 11.41.450. Incest**

**AS 11.41.458. Indecent exposure in the first degree**

**AS 11.41.530. Coercion**

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<sup>4</sup> Class B felonies characteristically involve conduct resulting in less severe violence against a person than class A felonies, aggravated offenses against property interests, or aggravated offenses against public administration or order.

<sup>5</sup> Class C felonies characteristically involve conduct serious enough to deserve felony classification but not serious enough to be classified as A or B felonies.

## **ABSOLUTE BARRIER CRIMES (continued)**

### **OFFENSES AGAINST FAMILY AND VULNERABLE ADULTS**

(ABSOLUTE BARRIER)

**AS 11.51.100. Endangering the welfare of a child in the first degree** (Classified as a class B felony, a class C felony, or a class A misdemeanor, depending on circumstances of the crime)

**AS 11.51.200. Endangering the welfare of a vulnerable adult in the first degree** (A class C felony)

**AS 11.51.210. Endangering the welfare of a vulnerable adult in the second degree** (A class A misdemeanor)

### **OTHER ABSOLUTE BARRIER CRIMES**

**AS 11.56.840. failure to register as a sex offender or kidnapper in the second degree** (A Class A misdemeanor)

**AS 11.61.123. Indecent viewing or photography (if the person viewed or shown in a picture was, at the time of the viewing or production of the picture, a minor; a Class C felony)**

**AS 11.61.127. Possession of child pornography** (A Class C felony)

**AS 11.61.125. Distribution of child pornography** (A Class B felony)

**AS 11.61.130. Misconduct involving a corpse** (A Class A misdemeanor)

## ABSOLUTE BARRIER CRIMES (continued)

### SEX OFFENSES

(ABSOLUTE BARRIER)

[NOTE: Some of the crimes described in this definition are already listed elsewhere as absolute barrier crimes.] Under AS 12.63.100(6), "sex offense" means

(A) a crime under AS 11.41.100(a)(3) [Murder in the First Degree], or a similar law of another jurisdiction, in which the person committed or attempted to commit a sexual offense, or a similar offense under the laws of the other jurisdiction; in this subparagraph, "sexual offense" has the meaning given in AS 11.41.100 (a)(3) [AS 11.41.100 (a)(3) states: "acting alone or with one or more persons, the person commits or attempts to commit a sexual offense against or kidnapping of a child under 16 years of age and, in the course of or in furtherance of the offense or in immediate flight from that offense, any person causes the death of the child; in this paragraph, "sexual offense" means an offense defined in AS 11.41.410 - 11.41.470];

(B) a crime under AS 11.41.110(a)(3) [Murder in the Second Degree], or a similar law of another jurisdiction, in which the person committed or attempted to commit one of the following crimes, or a similar law of another jurisdiction:

- (i) sexual assault in the first degree;
- (ii) sexual assault in the second degree;
- (iii) sexual abuse of a minor in the first degree; or
- (iv) sexual abuse of a minor in the second degree;

(C) a crime, or an attempt, solicitation, or conspiracy to commit a crime, under the following statutes or a similar law of another jurisdiction:

- (i) AS 11.41.410 - 11.41.438 [Sexual assault in the first degree, Sexual assault in the second degree, Sexual assault in the third degree, Sexual assault in the fourth degree, Sexual assault in the third degree, Sexual abuse of a minor in the first degree, Sexual abuse of a minor in the second degree, Sexual abuse of a minor in the third degree];
- (ii) AS 11.41.440 (a)(2) [Sexual abuse of a minor in the fourth degree, if "being 18 years of age or older, the offender engages in sexual contact with a person who is 16 or 17 years of age and at least three years younger than the offender, and the offender occupies a position of authority in relation to the victim"];
- (iii) AS 11.41.450 - 11.41.458 [Incest, Unlawful exploitation of a minor, Indecent exposure in the first degree];
- (iv) AS 11.41.460 [Indecent exposure in the second degree] if the indecent exposure is before a person under 16 years of age and the offender has a previous conviction for that offense;
- (v) AS 11.61.125 or 11.61.127 [Distribution of child pornography, Possession of child pornography];
- (vi) AS 11.66.110 or 11.66.130(a)(2) [Promoting prostitution in the first degree or Promoting prostitution in the third degree ((2) as other than a patron of a prostitute, induces or causes a person 16 years of age or older to engage in prostitution)] if the person who was induced or caused to engage in prostitution was 16 or 17 years of age at the time of the offense; or
- (vii) former AS 11.15.120, former 11.15.134, or assault with the intent to commit rape under former AS 11.15.160, former AS 11.40.110, or former 11.40.200."

## 10-YEAR BARRIER CRIMES

### CLASS B FELONIES

(10-YEAR BARRIER)

**AS 23.30.255. Penalty for failure to pay compensation [to an employee or an employee's dependents]** (if the amount involved is more than \$25,000)

**AS 11.31.100 – Attempt to commit a crime** (if the crime attempted is a class A felony)

**AS 11.31.110 – Solicitation to commit a crime** (if crime solicited is a class A felony)

**AS 11.31.120 – Conspiracy** (if the object of the conspiracy is a crime punishable as a class A felony)

**AS 11.46.120. Theft in the first degree**

**AS 11.46.280. Issuing a bad check** (if check is for \$25,000 or more)

**AS 11.46.285. Fraudulent use of an access device** (if the value is \$25,000 or more)

**AS 11.46.300. Burglary in the first degree**

**AS 11.46.480. Criminal mischief in the first degree**

**AS 11.46.500. Forgery in the first degree**

**AS 11.46.565. Criminal impersonation in the first degree**

**AS 11.46.600. Scheme to defraud**

**AS 11.46.730. Defrauding creditors** (if the loss is \$25,000 or more)

**AS 11.56.100. Bribery**

**AS 11.56.110. Receiving a bribe**

**AS 11.56.200. Perjury**

**AS 11.56.310. Escape in the second degree**

**AS 11.56.510. Interference with official proceedings**

**AS 11.56.520. Receiving a bribe by a witness or juror**

**AS 11.61.195. Misconduct involving weapons in the second degree**

**AS 11.61.240. Criminal possession of explosives** (if intended crime a class A felony)

## **10-YEAR BARRIER CRIMES (continued)**

### **CLASS B FELONIES (continued)**

**AS 11.66.110. Promoting prostitution in the first degree** (unless classified as a Class A felony)

**AS 11.71.030. Misconduct involving a controlled substance in the third degree**

**AS 11.73.030. Delivery of an imitation controlled substance to a minor**

**AS 21.36.360. Fraudulent or criminal insurance acts** (some subsections are class B felonies and some are class C felonies, depending on circumstances)

<h3><b>5-YEAR BARRIER CRIMES</b></h3>
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### **CLASS C FELONIES<sup>6</sup>** (5-YEAR BARRIER)

**AS 11.31.100 – Attempt to commit a crime** (if the crime attempted is a class B felony)

**AS 11.31.110 – Solicitation to commit a crime** (if crime solicited is a class B felony)

**AS 11.31.120 – Conspiracy** (if the object of the conspiracy is a crime punishable as a class B felony)

**AS 11.46.130. Theft in the second degree**

**AS 11.46.220. Concealment of merchandise** (if the merchandise is a firearm, or the value of the merchandise is \$500 or more, or the person has been previously convicted and sentenced on two or more separate occasions for same crime)

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<sup>6</sup> A felony under Alaska law defined outside AS 11 for which no penalty is specifically provided is a class C felony, but we'll have to check with Law to find out whether they should be absolute barrier crimes.

## **5-YEAR BARRIER CRIMES (continued)**

### **CLASS C FELONIES (continued)**

**AS 11.46.260. Removal of identification marks** (if the value of the property on which the serial number or identification mark appeared is \$500 or more)

**AS 11.46.270. Unlawful possession** (if the value of the property on which the serial number or identification mark appeared is \$500 or more)

**AS 11.46.280. Issuing a bad check** (if the face amount of the check is \$500 or more but less than \$25,000)

**AS 11.46.285. Fraudulent use of an access device** (if value is \$500 or more but less than \$25,000)

**AS 11.46.310. Burglary in the second degree**

**AS 11.46.360. Vehicle theft in the first degree**

**AS 11.46.482. Criminal mischief in the second degree**

**AS 11.46.505. Forgery in the second degree**

**AS 11.46.520. Criminal possession of a forgery device**

**AS 11.46.520. Criminal possession of a forgery device** (if value is \$500 or more)

**AS 11.46.530. Criminal simulation** (if value is \$500 or more)

**AS 11.46.550. Offering a false instrument for recording in the first degree** (if the value of the property misapplied is \$500 or more)

**AS 11.46.620. Misapplication of property** (if value is \$500 or more)

**AS 11.46.630. Falsifying business records**

**AS 11.46.660. Commercial bribe receiving**

**AS 11.46.670. Commercial bribery**

**AS 11.46.710. Deceptive business practices** (felony if the person uses the Internet or a computer network to commit the offense)

## **5-YEAR BARRIER CRIMES (continued)**

### **CLASS C FELONIES (continued)**

**AS 11.46.730. Defrauding creditors** (if the loss is \$500 or more but less than \$25,000)

**AS 11.46.740. Criminal use of computer**

**AS 11.56.230. Perjury by inconsistent statements**

**AS 11.56.320. Escape in the third degree**

**AS 11.56.370. Permitting an escape**

**AS 11.56.375. Promoting contraband in the first degree**

**AS 11.56.540. Tampering with a witness in the first degree**

**AS 11.56.590. Jury tampering**

**AS 11.56.600. Misconduct by a juror**

**AS 11.56.610. Tampering with physical evidence**

**AS 11.56.705. Harming a police dog in the first degree**

**AS 11.56.770. Hindering prosecution in the first degree**

**AS 11.56.810. Terroristic threatening**

**AS 11.56.815. Tampering with public records in the first degree**

**AS 11.56.835. Failure to register as a sex offender or child kidnapper in the first degree**

**AS 11.61.100. Riot**

**AS 11.61.145. Promoting an exhibition of fighting animals** (if the person  
(1) owns, possesses, keeps, or trains an animal with intent that it be engaged in an exhibition of fighting animals; or  
(2) instigates, promotes, or has a pecuniary interest in an exhibition of fighting animals)

## **5-YEAR BARRIER CRIMES (continued)**

### **CLASS C FELONIES (continued)**

**AS 11.61.160. Recruiting a gang member in the first degree**

**AS 11.61.200. Misconduct involving weapons in the third degree**

**AS 11.61.240. Criminal possession of explosives** (if intended crime is a class B felony)

**AS 11.61.250. Unlawful furnishing of explosives**

**AS 11.66.120. Promoting prostitution in the second degree**

**AS 11.66.210. Promoting gambling in the first degree**

**AS 11.66.230. Possession of gambling records in the first degree**

**AS 11.71.040. Misconduct involving a controlled substance in the fourth degree**

**AS 11.71.040. Misconduct involving a controlled substance in the fourth degree** (Except as provided in AS 11.73.030)

**AS 11.73.010. Manufacture or delivery of an imitation controlled substance**

**AS 11.73.020. Possession of substance with intent to manufacture**

**AS 11.73.040. Advertisement to promote the delivery of an imitation controlled substance**

**AS 28.35.030(n). Operating a vehicle, aircraft or watercraft while intoxicated** (If the person convicted of driving while intoxicated has been previously convicted two or more times within the previous five years)

## **2-YEAR BARRIER CRIMES**

### **OTHER CRIMES INVOLVING DOMESTIC VIOLENCE<sup>7</sup>**

(2-YEAR BARRIER)

**AS 11.46.320. Criminal trespass in the first degree** (A class A misdemeanor)

**AS 11.46.330. Criminal trespass in the second degree** (A class B misdemeanor)<sup>8</sup>

**AS 11.46.430. Criminally negligent burning** (A class A misdemeanor)

**AS 11.46.484. Criminal mischief in the third degree** (A class A misdemeanor)

**AS 11.46.486. Criminal mischief in the fourth degree** (A class B misdemeanor)

**AS 11.56.740. Violating a protective order** (A class A misdemeanor)

**AS 11.61.120(a)(2)-(4). Harassment** (A class B misdemeanor)

### **MISCELLANEOUS FELONIES**

(2-YEAR BARRIER)

**AS 47.30.815. Limitation of liability; bad faith application a felony.**

(Wilful initiation of an involuntary civil commitment procedure without having good cause)

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<sup>7</sup> Some crimes of domestic violence are listed elsewhere in this document: crimes against the person, burglary, arson, and terroristic threatening.

<sup>8</sup> A class B misdemeanor characteristically involves a minor risk of physical injury to a person, minor offenses against property interests, minor offenses against public administration or order, or minor offenses against public health and decency.

## **ADDITIONAL INFORMATION AND DEFINITIONS OF TERMS USED IN THIS DOCUMENT AND IN THE REGULATIONS**

For the purpose of determining if a person is convicted of a single offense or of multiple offenses, the provisions of AS 12.55.145(a)(1)(C) apply. That law states:

“Two or more convictions arising out of a single, continuous criminal episode during which there was no substantial change in the nature of the criminal objective are considered a single conviction unless the defendant was sentenced to consecutive sentences for the crimes; offenses committed while attempting to escape or avoid detection or apprehension after the commission of another offense are not part of the same criminal episode or objective.”

The term "conviction" has the meaning given in 13 AAC 09.900, which refers to AS 12.63.100, which states:

"conviction" means that an adult, or a juvenile charged as an adult under AS 47.12 or a similar procedure in another jurisdiction, has entered a plea of guilty, guilty but mentally ill, or nolo contendere, or has been found guilty or guilty but mentally ill by a court or jury, of a sex offense or child kidnapping regardless of whether the judgment was set aside under AS 12.55.085 or a similar procedure in another jurisdiction or was the subject of a pardon or other executive clemency; "conviction" does not include a judgment that has been reversed or vacated by a court.

The term "crime involving domestic violence" has the meaning given in AS 18.66.990, which states:

"crime involving domestic violence" means one or more of the following offenses or an offense under a law or ordinance of another jurisdiction having elements similar to these offenses, or an attempt to commit the offense, by a household member against another household member:

- (A) a crime against the person under AS 11.41;
- (B) burglary under AS 11.46.300 - 11.46.310;
- (C) criminal trespass under AS 11.46.320 - 11.46.330;
- (D) arson or criminally negligent burning under AS 11.46.400 - 11.46.430;
- (E) criminal mischief under AS 11.46.480 - 11.46.486;
- (F) terroristic threatening under AS 11.56.810 ;
- (G) violating a domestic violence order under AS 11.56.740 ; or
- (H) harassment under AS 11.61.120 (a)(2) - (4)”

The term “sex offense” is defined on page six of this document.

The term "unconditional discharge" has the meaning given in AS 12.55.185, which states: "unconditional discharge" means that a defendant is released from all disability arising under a sentence, including probation and parole.”



**TABLE OF REQUIREMENTS BY SIZE OF HOME**

**NOTE:** If there is any discrepancy between this table and the regulations or statutes referred to, that portion of this table must be disregarded. This table is intended for use only as a handy checklist, but does not in any way affect a person's responsibility to be thoroughly familiar with the regulations and statutes involved.

<b>Requirement</b>	<b>Fewer than 6 (3-5) Residents</b>	<b>6 or more Residents</b>	<b>11 or more Residents</b>
<b>ALL STATUTORY REQUIREMENTS SET OUT IN AS 47.33.005 – 47.33.990, ASSISTED LIVING HOMES</b> [Including provisions dealing with purpose, applicability, services allowed, advance payments, residents' money, temporary absences, house rules, resident files, closure or relocation, rate increases, criminal background checks, residential service contracts, assisted living plans, residents' rights, restrictions regarding use of physical restraint, prohibitions, access to home, licensing, enforcement, sanctions, and other matters related to licensing and operating an assisted living home.]	X  Unless one or more provisions is waived or modified under AS 47.33.920 & 7 AAC 75.410 (except the provisions for which waiver or modification are prohibited)	X  No provision may be waived or modified	X  No provision may be waived or modified
<b>7 AAC 75.010. APPLICABILITY</b>	X	X	X
<b>7 AAC 75.020. TYPES OF LICENSE; DURATION; LICENSING RESPONSIBILITY</b>	X	X	X
<b>7 AAC 75.030. POWERS AND DUTIES OF LICENSING AGENCY</b>	X	X	X
<b>7 AAC 75.050. VOLUNTARY LICENSURE</b>			
<b>7 AAC 75.060. PROBATIONARY LICENSE</b>	X	X	X
<b>7 AAC 75.070. STANDARD LICENSE.</b>	X	X	X
<b>7 AAC 75.080. APPLICATION FOR LICENSE; MODIFICATION.</b>	X	X	X
(a) Applying for license or modification	X	X	X
(b)(1)-(4) – contents of application	X	X	X
(b)(5)-(6) – contents of application regarding maximum occupancy established by fire safety inspection		X	X
(b)(7)-(11) – application requirements, including staff plan and disaster preparedness plan	X	X	X
(b)(13) – contents of application re business plan			X
(b)(14) – contents of application re information about previous denials, termination of license, termination of administrator or care provider for cause	X	X	X
(c) – Application to modify a license	X	X	X
<b>7 AAC 75.085. INSPECTION OF FINANCIAL RECORDS</b>	X	X	X
<b>7 AAC 75.090. RENEWAL; STAGGERED RENEWAL; EXTENSION.</b>	X	X	X
<b>7 AAC 75.100. FEES</b> (a)-(c) License fees	X	X	X
(d) – Fee for third and subsequent onsite visits	X	X	X
<b>7 AAC 75.110. CONTENT OF LICENSE; POSTING.</b>	X	X	X
<b>7 AAC 75.120. DENIAL OF LICENSE</b>	X	X	X
<b>7 AAC 75.130. LICENSE NOT TRANSFERABLE.</b>	X	X	X

**TABLE OF REQUIREMENTS BY SIZE OF HOME**

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<b>Requirement</b>	<b>Fewer than 6 (3-5) Residents</b>	<b>6 or more Residents</b>	<b>11 or more Residents</b>
<b>7 AAC 75.140. ACCESS AND INSPECTION.</b>	X	X	X
<b>7 AAC 75.210. ORGANIZATION; ADMINISTRATION; STAFF.</b>	X	X	X
(a)(1) – providing information regarding responsible person(s)	X	X	X
(a)(2) - requirements for administrator and administrator designee	X	X	X
(a)(3) – Written personnel practices and providing information to new employees	X	X	X
(a)(4) – Master list of residents and representatives	X	X	X
(a)(5) – recordkeeping system required	X	X	X
(a)(6) – policies and procedures for the completion of residential services contracts	X	X	X
(a)(7) – vehicle insurance	X	X	X
(a)(8)(A) – \$!00,000 bodily injury insurance \$100,000 professional liability insurance (One-year delay from April 6, 2002 for existing homes for adding professional liability insurance)	X	X (1-10)	
(a)(8)(B) - \$1,000,000 bodily injury insurance \$1,000,000 professional liability insurance (One-year delay from April 6, 2002 for existing homes for increase in bodily injury and for adding professional liability insurance; must have \$100,000 bodily injury until that date)			X
(b) – Regarding homes operated by an association, corporation, or other entity	X	X	X
(c) – Requiring adequate staff with adequate training	X	X	X
(d)-(e) – Requirement for CPR training; clarifies that “current” with regard to required first aid training is within previous three years; including provision for how to meet this requirement if training is not readily-available in the community	X	X	X
<b>7 AAC 75.215. CRIMINAL BACKGROUND CHECK REQUIREMENTS.</b> Prohibits a home from hiring or retaining a person convicted of crimes listed, with provisions for absolute barriers to employment, 10-year barriers, five-year barriers, and two-year barriers. Requires additional name-check every two years Requires additional fingerprint check every six years	X	X	X
<b>7 AAC 75.220. GENERAL REQUIREMENTS</b>	X	X	X
(a) – Ensure that residents are always protected from abuse, neglect, or exploitation.	X	X	X
(b) – Employment requirements	X	X	X
(c) – Persons in direct contact with residents must be free from active pulmonary TB – annual test required	X	X	X

**TABLE OF REQUIREMENTS BY SIZE OF HOME**

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<b>Requirement</b>	<b>Fewer than 6 (3-5) Residents</b>	<b>6 or more Residents</b>	<b>11 or more Residents</b>
(d) – Requires sufficient language skills to meet needs of residents and access emergency services	X	X	X
(e) – Continuing education requirements	X	X	X
<b>7 AAC 75.230. ADMINISTRATOR</b>			
(a) Age and other general requirements	X	X	X
(b) Requires appointment of resident manager if administrator doesn’t manage daily operations	X	X	X
(c)(1) Education/experience requirements	X	X	
(c)(2) Education/experience requirements			X or multiple homes with total of 11 or more
<b>7 AAC 75.240. CARE PROVIDER</b>	X	X	X
(a) – General requirements	X	X	X
(b) – Orientation and supervision requirements	X	X	X
(c) – Defines “direct supervision”	X	X	X
<b>7 AAC 75.250. ADVERTISING</b>	X	X	X
<b>7 AAC 75.260. GENERAL ENVIRONMENTAL REQUIREMENTS</b>	X	X	X
(a)(1)-(6) – general requirements	X	X	X
(a)(7) – bedroomsize requirements	X	X	X
(b) – Requires building in which home exists to be used exclusively for ALH unless other occupancy is consistent with health, safety, etc. of residents and other occupants of building are in compliance with all local fire and safety codes, etc.	X	X	X
<b>7 AAC 75.265. FOOD SERVICE.</b>	X	X	X
<b>7 AAC 75.270. SAFETY AND EVACUATION REQUIREMENTS</b>			
(a) – New subsection stating that a home must meet the applicable requirements of the section – intended to alert homes that not all requirements are applicable to all homes	X	X	X
(b) – Inspection for various safety elements such as firearm storage, hot water temperatures, etc.	X	X	X
(c) – Requires disaster preparedness plan	X	X	X
(d) – Storage requirements for medications	X	X	X
(e)(1) – Requires compliance with life and safety requirements of Title 13		X	X
(e)(2) – Requires building code approval before licensing and for modifications that require local approval		X	X
(e)(3) – Requires and fire safety inspection before licensing and every two years after that		X	X

**TABLE OF REQUIREMENTS BY SIZE OF HOME**

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<b>Requirement</b>	<b>Fewer than 6 (3-5) Residents</b>	<b>6 or more Residents</b>	<b>11 or more Residents</b>
(f) – Inspection for life and safety requirements	X		
(g)(1)-(4) – Fire extinguisher, storage of flammables, and other safety requirements	X		
(g)(5) – smoke detection devices	X		
(g)(6) – two means of emergency escape; adds requirement for ladder for homes with two floors	X		
(g)(7) – Requires fully-opening window in each bedroom large enough to allow for escape unless there is a door leading outside. (Existing homes have one year from April 6, 2002 to comply)	X		
(g)(8)-(11) – prohibits open flame heaters and window screens that prevent exit; requires designated smoking area if smoking allowed; requires annual review of emergency procedures with residents	X		
(h) – Emergency evacuation drill/record	X		
(i) – Advisory safety inspection	X		
<b>7 AAC 75.280. SANITATION AND ENVIRONMENTAL PROTECTION</b>			
(a)(1) – requires inspection every two years for compliance with state and local sanitation and environmental protection standards (compliance was required; only inspection is new)		X	X
(a)(2) – water and sewer requirements	X		
(b) – agency inspection for sanitation and environmental protection	X		
(c) – moved to 270 (safety issues)			
(d) – Allowing for advisory inspections	X	X	X
<b>7 AAC 75.290. EMERGENCY SITUATIONS.</b> Requirement to provide copy of report to licensing agency rather than just making it available for review	X	X	X
<b>7 AAC 75.295. USE OF PHYSICAL RESTRAINT</b>	X	X	X
<b>7 AAC 75.300. ASSISTED LIVING PLAN</b>	X	X	X
<b>7 AAC 75.305. DETERMINATION REGARDING DECLARATIONS FOR MENTAL HEALTH TREATMENT.</b>	X	X	X
<b>7 AAC 75.310. ACCEPTANCE AND MANAGEMENT OF RESIDENT'S MONEY.</b>	X	X	X
<b>7 AAC 75.320. ANNUAL MONITORING REPORT.</b>	X	X	X
<b>7 AAC 75.330. REFUND OF RENT</b>	X	X	X
<b>7 AAC 75.340. NOTIFICATION REQUIREMENTS.</b>	X	X	X
<b>7 AAC 75.410. GROUNDS FOR VARIANCE</b>	X	X	X
<b>7 AAC 75. 415. TEMPORARY VARIANCE TO ADMIT A CHILD FOR CARE IN AN ASSISTED LIVING HOME</b>	X	X	X

**TABLE OF REQUIREMENTS BY SIZE OF HOME**

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<b>Requirement</b>	<b>Fewer than 6 (3-5) Residents</b>	<b>6 or more Residents</b>	<b>11 or more Residents</b>
<b>7 AAC 75.420. APPLICATION FOR VARIANCE, GENERALLY</b>	X	X	X
<b>7 AAC 75.430. APPLICATION FOR TEMPORARY VARIANCE.</b>	X	X	X
<b>7 AAC 75.440. EVALUATION OF APPLICATION FOR TEMPORARY VARIANCE.</b>	X	X	X
<b>7 AAC 75.450. GRANT OR DENIAL OF TEMPORARY VARIANCE.</b>	X	X	X
<b>7 AAC 75.460. APPLICATION FOR PERMANENT VARIANCE.</b>	X	X	X
<b>7 AAC 75.470. EVALUATION OF APPLICATION FOR PERMANENT VARIANCE.</b>	X	X	X
<b>7 AAC 75.480. GRANT OR DENIAL OF PERMANENT VARIANCE.</b>	X	X	X
<b>7 AAC 75.490. APPEAL FROM DENIAL OF VARIANCE</b>	X	X	X
<b>7 AAC 75.510. VIOLATION CONFERENCE</b>	X	X	X
<b>7 AAC 75.520. REPORT OF COMPLIANCE IN RESPONSE TO NOTICE OF VIOLATION</b>	X	X	X
<b>7 AAC 75.530. VIOLATION CONSTITUTING AN EMERGENCY</b>	X	X	X
<b>7 AAC 75.540. TEMPORARY INABILITY TO CORRECT A VIOLATION CONSTITUTING AN EMERGENCY</b>	X	X	X
<b>7 AAC 75.550. REFUSAL TO CORRECT A VIOLATION CONSTITUTING AN EMERGENCY</b>	X	X	X
<b>7 AAC 75.560. SANCTIONS BASED ON CONVICTION OF ADMINISTRATOR.</b>	X	X	X
<b>7 AAC 75.570. SANCTIONS FOR NONCOMPLIANCE</b>	X	X	X
<b>7 AAC 75.990. DEFINITIONS.</b>	X	X	X



# INDEX



## INDEX

10 or fewer residents .....	23	alcohol.....	62, 79
10 years .....	19	American Heart Association .....	17
10-YEAR BARRIER CRIMES .....	93, 94	American Red Cross .....	17
11 or more residents .....	8, 16, 23	ammunition .....	27
14 days .....	39, 64	annual report .....	37
24 hours .....	14, 20, 33, 38, 39, 89	appeal.....	12, 47, 51
2-YEAR BARRIER CRIMES .....	98	arrest.....	20, 89
30 days.....	12, 15, 16, 19, 36, 39, 47, 49, 52, 64, 66, 73, 74, 81, 87	AS 08.68.....	60, 67
48 hours .....	38	AS 11.41 .....	18
5-YEAR BARRIER CRIMES .....	94, 95, 96, 97	AS 11.46.410.....	18
60 days .....	73, 80	AS 11.51.100.....	18, 91
7 AAC 26.985 .....	17	AS 11.51.200.....	18
7 AAC 75.215 .....	7, 14, 18, 21, 22, 24, 38, 41, 87, 102	AS 11.51.210.....	18
7 AAC 75.220 .....	3, 7, 22	AS 11.56.840.....	18, 91
7 AAC 75.260 .....	40	AS 11.61.123.....	18
7 AAC 75.295 .....	32, 38, 39, 104	AS 11.61.125.....	18, 91, 92
7 AAC 75.310 .....	35, 41, 104	AS 11.61.127.....	18, 91
7 AAC 75.340 .....	20, 31, 33, 38, 49, 50, 104	AS 12.55.145.....	19, 99
7 AAC 75.570 .....	12, 50, 51, 105	AS 12.55.185.....	20, 99
72 hours .....	39	AS 12.63.100.....	20, 99
90 consecutive days or longer .....	15, 21	AS 19.10.300.....	15
90 days .....	39, 64, 78	AS 44.21.231.....	71
a residential service contract .....	65, 83	AS 44.62.....	12, 47
abandonment .....	5	AS 44.62.370.....	47
ABSOLUTE BARRIER CRIMES .....	88, 89, 90, 91, 92	AS 44.62.540.....	12, 47
abuse.....	5, 21, 62, 79, 88, 90, 92	AS 44.62.560.....	12
accident.....	16, 31, 38	AS 47.30.950.....	34
activities of daily living .....	25, 52, 58, 59, 67, 82, 83	AS 47.33.010.....	5, 25
adjudicatory .....	70, 73, 81	AS 47.33.060.....	24
administrative fine .....	79, 81	AS 47.33.070.....	15, 63
Administrative Procedure Act.....	12, 47, 81	AS 47.33.100.....	18, 19, 20, 21, 41, 64, 65, 81, 87
administrative sanction .....	50, 51, 80, 81	AS 47.33.210.....	15
administrative sanctions .....	12, 50	AS 47.33.220.....	8, 27, 34, 66
ADMINISTRATIVE SANCTIONS .....	79	AS 47.33.300.....	63, 69, 71
administrator designee .....	14, 21, 102	AS 47.33.330.....	32, 72
administrator's designee.....	68	AS 47.33.340.....	63, 71, 73
adult protective services .....	50, 80	AS 47.33.350.....	63, 73
advance payment .....	38, 39, 61, 63	AS 47.33.540.....	78
advance payments .....	61, 66, 101	AS 47.33.550.....	12, 50, 51, 79
advance rent.....	37, 61	AS 47.35.....	3, 59
ADVERTISING.....	25, 103	assaultive behavior.....	31, 38
advocacy or special interest groups .....	70	assisted living plan.....	8, 25, 27, 32, 33, 34, 35, 38, 39, 58, 59, 60, 63, 66, 67, 68, 69, 70, 72, 74, 82, 83
advocate .....	73, 74, 82	assisted living plans .....	16, 34, 101
advocates .....	71	baccalaureate .....	22
age in place.....	58	bathing .....	69, 82
aging in place .....	41, 82	bedroom.....	3, 25, 29, 103, 104

bedrooms .....	3, 28, 29
bedside rails .....	34
biohazards .....	24
blood-borne germs .....	53
board .....	14, 23
business plan .....	8, 101
cardiopulmonary resuscitation.....	17
care provider.....	8, 17, 21, 22, 23, 24, 38, 52, 65, 101
case conference .....	74
character reference.....	21
chemical restraint.....	72
child .....	18, 42, 91, 92, 96, 99, 104
civil action .....	73
class A felony .....	18, 93
class B felonies .....	18, 94
class B felony.....	18, 19, 91, 94, 97
class C felony.....	18, 91, 94
closing.....	64, 74
closure .....	39, 64, 101
clothing.....	25, 69
combustible waste material.....	28, 29
community services and activities.....	70
complaint .....	9, 77, 78
complaints .....	5, 73
concave mattresses.....	33
continuing education.....	3, 21, 22
contractors .....	21
controlled substance .....	79, 82, 88, 89, 94, 97
controlled substances .....	28
convict .....	20
conviction.....	20, 21, 50, 79, 87, 92, 99
correspondence .....	21, 69
court order.....	77
CPR.....	17, 102
crime .....	18, 19, 20, 87, 88, 89, 91, 92, 93, 94, 97, 99
CRIMINAL BACKGROUND CHECK.....	18, 102
criminal background checks .....	41, 101
CRIMINAL PENALTY .....	81
cultural .....	27
declaration of preferences or instructions regarding mental health treatment.....	34
delinquent.....	20
dementia.....	4, 7, 75
Department of Public Safety.....	64, 87
developmental disability .....	7, 71, 83
direct care services.....	52
direct contact with residents .....	21, 102
direct supervision.....	24, 103
disaster preparedness plan.....	8, 17, 101, 103
distance learning .....	21
door .....	29, 70, 104
double occupancy.....	25
dual license.....	4

educational and informational materials .....	71
elderly.....	4, 7, 58, 75
emergencies.....	15
emergency.....	6, 21, 24, 27, 28, 29, 30, 31, 38, 49, 50, 52, 59, 74, 102, 104
Emergency evacuation drills .....	30
emotional health .....	67
endorsement.....	15, 16
environmental protection.....	30, 31, 104
ethnic.....	27
evacuated .....	15
evacuation.....	6, 27, 28, 30, 104
evaluation.....	34, 37, 68
exercise.....	70
experience.....	3, 22, 23, 24, 102, 103
exploitation.....	5, 90, 92
Federal Bureau of Investigation.....	64
fee .....	10, 28, 30, 31, 101
FEES .....	10, 81, 101
felony .....	18, 19, 79, 88, 89, 90, 91, 94, 95, 98
fewer than six residents .	16, 28, 29, 30, 31, 41, 43, 45, 81
file .....	19, 21, 22, 24, 27, 31, 34, 63, 65, 68, 77, 79
files .....	70, 73, 77, 101
financial records .....	8
fingerprints .....	19, 21, 64, 87
fire codes .....	26
fire extinguisher.....	29
fire extinguishers .....	28
fire safety.....	7, 24, 28, 30, 101, 103
firearms .....	27
fireplaces.....	29
first aid .....	17, 31, 102
five days .....	39, 42
five or fewer residents .....	75
five years .....	19, 23, 97
flammable liquids.....	29
food .....	25, 27, 31, 52, 53, 58, 67, 83
food preparation and serving.....	25
fraud .....	79
furniture .....	25
gerontology.....	22
governing body.....	14, 16, 22
grievance .....	63, 71, 73
grievance procedure .....	73
grievances .....	70
health administration .....	22
health care .....	70, 84
health-related restrictions .....	70
health-related services.....	25, 59, 60, 67, 68, 82
hearing .....	12, 47, 80, 81
heating appliances .....	29
homelike environment.....	58
house rules .....	24, 62, 63, 101

housing	25, 58
imminent danger	32, 43, 72, 80, 83
immunity	63
IMMUNITY	77
impairments	67
independence	58, 66, 70, 83
independent living	67
infection control	24
injury	3, 15, 16, 27, 31, 38, 51, 89, 98, 102
in-service	22
inspection	6, 7, 10, 12, 13, 28, 30, 31, 101, 103, 104
INSPECTION OF FINANCIAL RECORDS	8
inspections	28, 30, 72, 104
instrumental activities	52, 83
insurance	3, 15, 16, 94, 102
intervention	31, 32, 33, 38
investigate	5, 76, 77
investigation	6, 8, 19, 21, 64, 77, 78, 87
INVOLUNTARY TERMINATION OF CONTRACT	74
judicial order allowing access and inspection	12, 13
judicial review	12, 47
language	21, 67, 102
lap-top trays	33
laundry	25, 83
legal services	71, 84
less than six residents	3, 30
liquid wastes	31
living will	63
log	31
long term care ombudsman	71
mailing address	11, 39, 64
major modification	6, 10
master list	15
meals	27, 70
medical	31, 32, 38, 45, 46, 59, 60, 67, 69, 74, 83, 84
medication	24, 28, 59, 72
medications	28, 59, 70, 103
mental disability	58
mental health	12, 34, 47, 67
mental illness	7, 71
mental or developmental disability	4, 75
mentally ill	4, 7, 75, 99
menu	27
misdemeanor	79, 91, 98
misrepresentation	79
modification	6, 8, 10, 28, 39, 81, 101
money	35, 36, 41, 61, 63, 70, 71, 83, 101
multiple homes	8, 23, 103
multiple offenses	19, 99
name-check criminal background	19, 21, 64, 87
national criminal history record check	19, 64, 87
neglect	5, 21
noncompliance	4, 9, 10, 51

nonpotable water	30
notice	9, 12, 13, 15, 16, 28, 31, 32, 37, 38, 39, 42, 43, 48, 49, 50, 62, 63, 64, 70, 73, 74, 78, 79, 80, 81
notice of violation	9, 12, 13, 28, 37, 43, 48, 49, 50, 78, 79
notification	20, 33, 38, 40
nurse	23, 24, 60, 67
nurse aide	23
nursing care	25, 60
nursing services	60
nursing task	60
offense	18, 19, 20, 38, 64, 65, 79, 87, 92, 95, 99
onsite visits	10, 101
open flame heaters	29, 104
orientation	14, 24
Orientation	24, 103
outdoors	70
PERMANENT VARIANCE	45, 46, 105
permission	72
permits	5, 7, 41, 70
personal assistance	25, 58, 59, 67, 83
personal possessions	25, 69
personal property	62, 69
personnel practices	15, 102
physical disabilities	67
physical disability	4, 58, 75
physical restraint	32, 33, 38, 39, 72, 101
physician	31, 32, 33, 34, 60, 67, 72, 74, 83, 84
plan of correction	9, 43, 49
police	31, 38, 96
policies and procedures	15, 24, 66, 102
policies, procedures	15, 70
population of residents to be served	22, 23, 24
portable heating mechanisms	28
post	11, 31, 49, 62, 71
POSTING	11, 101
power of attorney	63
prenotification	32, 38
prevailing community residential standards	28, 31
prevailing residential standards of the community	6
privacy	25, 69, 70, 81
private water supply	30
probation or parole authority	18
probationary	4, 6, 9, 10, 11
PROBATIONARY LICENSE	6, 101
PROHIBITIONS	72
public sewer system	31
radio	62
rails	34
RATE INCREASE	64
rates	66
reasonable wants	58, 67, 68, 82
recordkeeping	15, 102
records	15, 51, 77, 95, 96, 97

recreational activities .....	67	staff plan .....	8, 101
references .....	21, 65	standard license.....	4, 6, 9, 10, 11
refund.....	37, 61, 66	storage .....	25, 28, 31, 103
refund of advance payments .....	37, 66	supervisor.....	23, 24
religious .....	27, 67, 70, 72	supportive services.....	83, 84
relocation.....	39, 64, 70, 101	suspend .....	79
reporting .....	24	suspension .....	4, 81
resident manager.....	22, 103	sworn statement .....	21, 64, 87
resident rights .....	24	telephone.....	7, 8, 14, 15, 21, 48, 62, 63, 69, 71, 83
residential services contract.....	8, 27, 37, 39, 53, 61, 62, 63, 66, 68, 70, 71, 72, 73, 74	television .....	62
residential services contracts .....	15, 16, 102	TEMPORARY ABSENCE .....	62
resident's rights .....	63	temporary variance.....	42, 45
resident's service coordinators .....	50	terminally ill .....	60, 84
retaliation.....	63, 73	termination.....	8, 15, 36, 37, 39, 61, 66, 73, 74, 101
retaliatory action.....	73	The Food Guide Pyramid.....	27
revocation.....	4, 81	three or more adults .....	58
revoke.....	47, 79	time out .....	32, 33
right .....	42, 62, 63, 66, 67, 69, 70, 71, 72, 73, 74, 79, 80	tobacco .....	62
right of a resident .....	62	toileting.....	69, 82
rights .....	66, 69, 71, 72, 101	training .....	3, 16, 17, 22, 23, 24, 66, 67, 102
room.....	25, 29, 33, 69, 70, 72	tranquilizers .....	72
roommates .....	67	tuberculosis .....	21
safeguards .....	21	two years .....	4, 9, 17, 19, 23, 28, 30, 102, 103, 104
safety.....	6, 26, 27, 28, 33, 41, 42, 43, 44, 45, 46, 49, 50, 51, 72, 80, 83, 103, 104	United States Department of Agriculture .....	27
sanction .....	80	United States Department of Health and Human Services, Centers for Disease Control and Prevention .....	53
sanitation.....	9, 24, 30, 31, 72, 104	universal precautions .....	24, 53
screens .....	30, 104	vacation .....	14
self-administering.....	59	variance.....	5, 8, 39, 41, 42, 43, 44, 45, 46, 47, 79, 104
self-monitoring report .....	28, 37	vehicles .....	15
self-neglect.....	5	violation.....	12, 38, 48, 49, 50, 51, 73, 74, 77, 78, 79, 80
self-release.....	33	visitation .....	67
seminar.....	22	visiting .....	69
service coordinator.....	38, 53, 63, 66, 68, 74, 84	visitors .....	21, 62
service coordinators .....	50, 64, 80	visits .....	70
sewage .....	31	VOLUNTARY LICENSURE .....	5, 101
SEX OFFENSES .....	92	volunteers.....	21
signal device .....	25	waiver.....	81
single occupancy .....	25	water.....	3, 27, 30, 31, 103, 104
six or more residents .....	7, 10, 28, 30, 42	water and sewage.....	3
smoke detector.....	29	wedge chair cushions .....	33
smoke detectors .....	28	window.....	29, 30, 104
smoking.....	30, 104	written policy .....	37, 61
snack.....	27		
spouse.....	34, 70		