

1 CABINET FOR HEALTH AND FAMILY SERVICES

2 Department for Aging and Independent Living

3 Division of Operations and Support

4 (Amendment)

5 910 KAR 1:240. Certification of assisted-living communities.

6 RELATES TO: KRS Chapter 13B, 17.165(1), (2), 194A.060(1), 194A.700-729,
7 209.030, 216.300(1), 216.595, 216.789, 216.793

8 STATUTORY AUTHORITY: KRS 194A.050(1), 194A.707(1)

9 NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.707(1) requires the
10 cabinet to promulgate an administrative regulation establishing an initial and annual
11 certification review process for assisted-living communities that shall include an on-site
12 visit and procedures related to applying for, reviewing, and approving, denying, or
13 revoking certification, as well as the conduct of hearings upon appeals as governed by
14 KRS Chapter 13B. This administrative regulation establishes the certification process
15 for assisted-living communities.

16 Section 1. Definitions.

17 (1) "Applicant" means the owner or manager who represents a business seeking
18 initial or annual certification as an assisted-living community.

19 (2) "Activities of daily living" is defined by KRS 194A.700(1).

20 (3) "Assisted-living community" is defined by KRS 194A.700(3).

21 (4) "Client" is defined by KRS 194A.700(4).

1 (5) "Certification review" means the process of reviewing applications and issuing
2 certification for an assisted-living community.

3 (6) "Danger is defined by KRS 194A.700(5).

4 (7) "Functional needs assessment" means the client data required by KRS
5 194A.713(1)(a) to be in a lease agreement.

6 (8) [~~7~~] "Instrumental activities of daily living" is defined by 194A.700(7).

7 (9) [~~8~~] "Living unit" is defined by KRS 194A.700(8).

8 (10) [~~9~~] "Temporary health condition" means a condition that affects a client and
9 for which health services are being provided as referred to in KRS 194A.711; and

10 (a) The client loses mobility either before or after entering a lease agreement with
11 the assisted-living community but is expected to regain mobility; or

12 (b) The client loses mobility after entering a lease agreement and is not expected
13 to recover and the provided health services are hospice or similar end-of-life services.

14 Section 2. Application for Initial Certification Review.

15 (1) For initial certification an applicant shall, within at least sixty (60) days prior to
16 a planned opening, file with the department:

17 (a) A completed DAIL-ALC-1, Assisted-Living Community Certification
18 Application;

19 (b) A copy of a blank lease agreement and any documentation incorporated by
20 reference into the lease agreement;

21 (c) A copy of written material used to market the proposed assisted-living
22 community, including material that markets offered special programming, staffing, or
23 training in accordance with KRS 194A.715(1)(c);

1 (d) The floor plan of the proposed assisted-living community identifying the:

2 1. Living units, including features that meet the requirements of KRS

3 194A.703(1);

4 2. Central dining area;

5 3. Laundry facility; and

6 4. Central living room; and

7 (e) A nonrefundable certification fee:

8 1. Assessed by the department in accordance with KRS 194A.707(6);

9 2. Made payable to the Kentucky State Treasurer; and

10 3. Mailed to the Department for Aging and Independent Living, 275 East Main

11 Street, Frankfort, Kentucky 40621.

12 (2) If an initial certification becomes effective on a date other than July 1, the
13 certification fee shall be prorated by:

14 (a) Calculating the fee for a year by computing twenty (20) dollars per living unit
15 or the \$300 minimum set forth in KRS 194A.707(6), whichever is greater, but no more
16 than the \$1600 maximum set forth in KRS 194A.707(6);

17 (b) Dividing the yearly fee by twelve (12) to obtain a monthly fee; and

18 (c) Multiplying the monthly fee by the number of months remaining until the
19 annual renewal on July 1.

20 Section 3. Application for Annual Certification Review.

21 (1) The department shall renew a certification if an assisted-living community:

22 (a) Has obtained its initial certification in accordance with Section 5 of this
23 administrative regulation; and

- 1 (b) Submits to the department annually by July 1:
- 2 1. A completed DAIL-ALC-1, Assisted-Living Community Certification Application;
- 3 2. The documentation required by Section 2(1)(a) through (d) of this
- 4 administrative regulation, if changes have occurred since the previous certification; and
- 5 3. The nonrefundable certification fee required by Section 2(e) of this
- 6 administrative regulation.

7 (2) If an annual certification is due after the effective date of this administrative

8 regulation and before or after the required annual certification date, the certification fee

9 shall be prorated as specified in Section 2(2)(a) and (b) of this administrative regulation.

10 Section 4. Change in an Assisted-Living Community.

11 (1) If there is an increase in the number of living units, an assisted-living

12 community shall reapply for certification with the department:

- 13 (a) In accordance with Section 2(1) of this administrative regulation; and
- 14 (b) Not less than sixty (60) days prior to the increase.

15 (2) If the increase in units occurs before or after the required annual certification

16 date, the certification fee shall be twenty (20) dollars per each additional unit prorated in

17 accordance with Section 2(2) of this administrative regulation.

18 (3) If there is a decrease in the number of living units, an assisted-living

19 community shall notify the department within sixty (60) days of the decrease.

20 (4) If there is a change of more than fifty (50) percent interest in ownership of an

21 assisted-living community, the new owner shall apply for certification:

- 22 (a) By following the procedures in Section 3 of this administrative regulation; and
- 23 (b) Within thirty (30) days of the change of owners.

1 (5) An assisted-living community shall:

2 (a) Notify the department in writing:

3 1. Within thirty (30) days of a name or mailing address change for the assisted-
4 living community or the applicant; or

5 2. At least sixty (60) days prior to termination of operation; and

6 (b) Notify a client of termination of operation sixty (60) days prior to closure

7 unless there is sudden termination due to:

8 1. Fire;

9 2. Natural disaster; or

10 3. Closure by local, state, or federal agency.

11 Section 5. Initial Certification of an Assisted-Living Community. If department

12 staff determines that an applicant for initial certification meets the application

13 requirements specified in Section 2(1) of this administrative regulation, the department

14 shall:

15 (1) Consider the application process complete;

16 (2) Notify the applicant of operation status within ten (10) business days of

17 receipt of the completed DAIL-ALC-1, Assisted-Living Community Certification

18 Application; and

19 (3) Conduct an on-site review.

20 Section 6. Annual Certification of an Assisted-Living Community. If department

21 staff determines that an applicant for annual certification meets the application

22 requirements specified in Section 3(1) of this administrative regulation, the department

23 shall:

1 (1) Consider the application process complete; and
2 (2) Conduct an unannounced on-site review within one (1) year of receipt of the
3 DAIL-ALC-1, Assisted-Living Community Certification Application.

4 Section 7. On-Site Review of an Assisted-Living Community.

5 (1)(a) A representative of the department conducting a certification review shall
6 not disclose information made confidential by KRS 194A.060(1).

7 (b) A confidential interview with a client or access to a client's living unit shall be
8 subject to the client's oral or written consent.

9 (2) The on-site review shall consist of:

10 (a) Review of employment records including:

11 1. An employment application that shall contain a criminal record check notice
12 pursuant to KRS 216.793(1);

13 2. A criminal records check that shall be:

14 a. Requested in accordance with KRS 216.789(3); and

15 b. Applied for within seven (7) days from date of an employee's hire;

16 3. Verification that an employee reads and agrees to the policy and procedures
17 of the assisted-living community regarding communicable disease pursuant to KRS

18 194A.717(4); and

19 4. Documentation of:

20 a. Completion of employee orientation within ninety (90) days of the date of hire;

21 and

22 b. In-service education:

23 (i) Pursuant to KRS 194A.719; and

- 1 (ii) Provided on an annual basis;
- 2 (b) Verification of compliance with KRS 194A.703;
- 3 (c) Review of client records including:
- 4 1. A completed client functional needs assessment to ensure that the client met
- 5 the eligibility requirements for assisted-living pursuant to KRS 194A.711 prior to
- 6 finalizing a lease agreement;
- 7 2. A completed functional needs assessment that reflects a client's ongoing
- 8 ability pursuant to KRS 194A.711 to perform activities of daily living and instrumental
- 9 activities of daily living;
- 10 3. Current personal preferences and social factors; and
- 11 4. A signed lease with all attachments;
- 12 (d) Review of an assisted-living community's policies and procedures for
- 13 compliance with KRS 194A.700 through 194A.729 using a DAIL-ALC-2, Assisted-Living
- 14 Community Certification Checklist;
- 15 (e) Review of an assisted-living community's written service provision and
- 16 practices related to:
- 17 1. Provisions of KRS 194A.705;
- 18 2. Health services, delivered by assisted-living staff, which shall be reported in
- 19 compliance with KRS 194A.709(1);
- 20 3. Documentation in a client's file:
- 21 a. ~~[At the department's request;~~
- 22 ~~b.]~~ From a licensed health care professional defined by KRS 216.300(1) or entity
- 23 providing the health service pursuant to KRS 194A.711:

1 (i) Requested of the client by the assisted-living community; and
2 (ii) That states the client has a temporary health condition pursuant to KRS
3 194A.711(1); and

4 b. From the assisted-living community to ensure that the client is not a danger,
5 including if hospice or similar end-of-life services are provided; and

6 ~~(c. Requested of the client by the assisted-living community; and~~

7 ~~d. That states:~~

8 ~~(i) the client has a temporary health condition pursuant to KRS 194A.711(1); and~~

9 ~~(ii) how the assisted-living community shall ensure that the client is not a danger,~~

10 ~~if hospice or similar end-of-life services are provided; and]~~

11 4. Compliance with KRS 194A.713(11), 194A.715(1)(c), 194A.719(10), and
12 216.595 regarding special programming, staffing, or training that may be provided to a
13 client of an assisted-living community provided the assisted-living community:

14 a. Ensures a client's functional needs assessment that:

15 (i) Reflects the client's ongoing abilities as specified in paragraph (c) 2 of this
16 subsection; and

17 (ii) Shall be updated at least annually; and

18 b. Complies with the requirements of KRS 216.595; and

19 (f) Review of any documentation or records to ensure compliance pursuant to
20 KRS 194A.707(7).

21 (3) The department may, pursuant to KRS 194A.707(7), request additional
22 information to ensure an assisted-living community complies with KRS 194A.700-729
23 and 216.789(1).

1 (4) Prior to completion of the on-site visit at the assisted-living community, a
2 department representative shall [~~schedule and~~] hold a meeting with the assisted-living
3 community manager or designee to discuss the preliminary results of the on-site visit.

4 Section 8. Assisted-living On-Site Review Findings.

5 (1) The department shall:

6 (a) Document any noncompliance with KRS 194A.700 through 194A.729 or this
7 administrative regulation found during an on-site review on the DAIL-ALC-2₁ Assisted-
8 Living Community Certification Checklist; and

9 (b) Submit the finding of noncompliance to the applicant:

10 1. On a statement of noncompliance located on the DAIL-ALC-3₁ Statement of
11 Noncompliance and Plan of Correction; and

12 2. Unless the finding is due to a client being a danger pursuant to subsection (9)
13 of this section, within fifteen (15) business days upon completion of the on-site review.

14 (2)(a) The assisted-living community shall complete a plan of correction on the
15 DAIL-ALC-3₁ Statement of Noncompliance and Plan of Correction and submit the form
16 to the department within fifteen (15) business days of receipt of the notice of
17 noncompliance.

18 (b) The assisted-living community shall specify in the plan the dates by which the
19 noncompliance [~~non-compliance~~] shall be corrected.

20 (3) The department shall notify the applicant in writing within fifteen (15) business
21 days of receipt of the plan of correction:

22 (a) Whether the plan of correction is approved or not approved; and

23 (b) The reasons for the department's decision.

1 (4)(a) If the plan of correction is approved and the department determines a
2 follow-up on-site review is unnecessary, the department shall issue a certification
3 certificate.

4 (b) The assisted-living community shall post the certificate in a public area.

5 (5) If the plan of correction is not approved, the applicant shall submit to the
6 department an amended plan of correction within fifteen (15) business days of receipt of
7 notice the plan was not approved.

8 (6) If the department determines after reviewing the amended plan of correction
9 that certification may be denied or revoked [~~shall be denied~~], the department shall notify
10 the assisted-living community in writing within ten (10) business days of the
11 determination and with the:

12 (a) Opportunity for an informal dispute resolution meeting:

13 1. Between the:

14 a. Department; and

15 b. [~~A representative of~~] The assisted-living community;

16 2. To be held within fifteen (15) days of the assisted-living community's receipt of
17 the notice; and

18 3. To address a dispute [~~an issue of noncompliance in question~~], including the
19 provision of additional documentation or support materials; and

20 (b) Appeal rights as specified in Section 11 of this administrative regulation if:

21 1. An informal dispute is not requested; or

22 2. A dispute is not resolved with the informal dispute resolution.

23 (7) If an applicant meets all the requirements on the DAIL-ALC-2, Assisted-Living

1 Community Certification Checklist, the department shall issue a certification certificate
2 verifying its status.

3 (8) The assisted-living community shall post the certification certificate in a public
4 area.

5 (9) If the department finds during a complaint or certification review that a client is
6 a danger, the department shall:

7 (a) Immediately notify the assisted-living community as established in Section
8 7(4) of this administrative regulation; and

9 (b) Provide the DAIL-ALC-4, Statement of Danger to the assisted-living
10 community.

11 (10) Within forty eight (48) hours, unless issued on a Friday and then by 4:30
12 p.m. eastern standard time of the next business day, of receiving the DAIL-ALC-4,
13 Statement of Danger, the assisted-living community shall begin to implement a plan to
14 correct the danger in accordance with Section 9(2)(e)1 or 2 of this administrative
15 regulation.

16 (11) The department shall make a report of suspected abuse, neglect, or
17 exploitation to Adult Protective Services in accordance with KRS 209.030(3).

18 (12) The department may conduct additional on-site visits pursuant to KRS
19 194A.707(7).

20 Section 9. Denial and Revocation of Certification.

21 (1) Certification shall be denied or revoked if:

22 (a) 1. The department determines upon a complaint or certification review that an
23 assisted-living community knowingly employed an individual convicted of an offense

1 prohibited by KRS 216.789(1) or 216.789(2) as disclosed by[;:

2 4.] the individual's employment application[;:] or

3 2.] a criminal records check and if the assisted-living community fails to

4 immediately terminate the employment upon the department's finding; or

5 2. The same repeat violation of subparagraph 1 of this paragraph is found by the

6 department within a three (3) year period; or

7 (b) An assisted-living community or applicant fails to submit a plan of correction
8 to the department as specified in Section 8(2) through (7) of this administrative
9 regulation.

10 (2) Certification may be denied or revoked if an assisted-living community:

11 (a) Fails to apply for certification as specified in Sections 2(1), 3(1), or 4(1) of this
12 administrative regulation;

13 (b) Submits a completed DAIL-ALC-1, Assisted-Living Community Certification
14 Application more than fifteen (15) days late for two (2) consecutive years; [ø]

15 (c) Fails to submit a completed DAIL-ALC-1, Assisted-Living Community
16 Certification Application within thirty (30) days of July 1 annually;

17 (d) Fails to implement its most recent approved plan of correction:

18 1. Under current ownership; and

19 2. Within the plan of correction's specified timeframe on the DAIL-ALC-3,

20 Assisted-Living Community Statement of Noncompliance and Plan of Correction;

21 (e) Fails to comply with one (1) of the following requirements if the department

22 finds that a client is a danger and the department initially verifies those findings in

23 writing pursuant to Section 8(9) of this administrative regulation:

1 1. Within forty eight (48) hours, unless issued on a Friday and then by 4:30 p.m.
2 eastern standard time of the next business day, of receiving the DAIL-ALC-4 Statement
3 of Danger, the assisted-living community shall submit a written response to the
4 department that confirms how the danger has been eliminated or why the danger is
5 disputed, with submission occurring via:

- 6 a. Email;
- 7 b. Facsimile transmission;
- 8 c. Delivery to the department by hand;
- 9 d. United States mail; or
- 10 e. Courier service; or

11 2. Within forty eight (48), unless issued on a Friday and then by 4:30 p.m.
12 eastern standard time of the next business day, of receiving the DAIL-ALC-4, Statement
13 of Danger, the assisted-living community shall:

- 14 a. Initiate a move-out notice and begin the process of assisting the client to find
15 appropriate living arrangements pursuant to KRS 194A.705(4); and
- 16 b. Submit a written response to the department that confirms the assisted-living
17 community took the required action, with submission occurring via:

- 18 (i) Email;
- 19 (ii) Facsimile transmission;
- 20 (iii) Delivery to the department by hand;
- 21 (iv) United States mail; or
- 22 (v) Courier service; or
- 23 (f) Except as provided in subsection (3) of this section, fails to initiate the

1 requirements of paragraph (e)2 of this subsection, if the department:

2 1. Notifies the assisted-living community in writing that the client remains a

3 danger; and

4 2. Does not accept the assisted-living's community's written response pursuant
5 to paragraph (e)1 of this subsection.

6 (3) If, after reviewing the assisted-living community's written response pursuant
7 to subsection (2)(e)1 of this section, the department determines the client remains a
8 danger, the department shall notify the assisted-living community in writing that:

9 (a) Certification may be denied or revoked;

10 (b) The assisted-living community has the right to an informal dispute resolution
11 meeting:

12 1. Between the department and the assisted-living community;

13 2. For the purpose of attempting to resolve a dispute, including the provision of
14 additional documentation or support materials; and

15 3. To be requested by the assisted-living community in writing within three (3)
16 business days of receiving the department's written notice; and

17 (c) It has appeal rights pursuant to Section 11 of this administrative regulation if:

18 1. An informal dispute resolution meeting is not requested; or

19 2. A dispute is not resolved with the informal dispute resolution meeting.

20 (4) The department shall issue a written notice to the assisted-living community if
21 the department determines:

22 (a)1. A danger is unsubstantiated; or

23 2. The danger has been eliminated; or

1 (b) To deny or revoke certification following an informal dispute resolution
2 meeting pursuant to subsection (3)(b) of this section.

3 (5)(a) If an assisted-living community continues to operate after its certification is
4 revoked and fails to request an informal dispute resolution meeting or an administrative
5 hearing pursuant to Section 11 of this administrative regulation to resolve a danger
6 dispute, the assisted-living community may be fined in accordance with KRS
7 194A.723(1).

8 (b) The fine shall be paid as specified in Section 10(1) of this administrative
9 regulation.

10 Section 10. Collection of Fees and Fines.

11 (1) An entity or business found to be in violation of KRS 194A.723 and assessed
12 a penalty shall make a check payable to the Kentucky State Treasurer and mail it to the
13 Department for Aging and Independent Living, 275 East Main Street, Frankfort,
14 Kentucky 40621.

15 (2) A party aggrieved by a determination of the department may appeal the
16 determination or the fine in accordance with KRS Chapter 13B.

17 (3) The fee established for the notification of conditional compliance to a lender
18 after review of the architectural drawings and lease agreement, pursuant to KRS
19 194A.729, shall be \$250.

20 Section 11. Right to Appeal Decision and Hearings.

21 (1) If the department determines that a certification shall be denied or revoked,
22 [~~as specified in Section 9 of this administrative regulation,~~] the applicant shall be notified
23 of the right to appeal the determination:

- 1 (a) By certified mail; and
- 2 (b) Within ten (10) days of determination.
- 3 (2) To request an administrative hearing, an applicant shall send a written
- 4 request to the department within thirty (30) days of receipt of a written notice of:
- 5 (a) Nonapproval of the amended plan of correction; or
- 6 (b) Denial or revocation of certification.
- 7 (3) After receipt of the request for a hearing, the cabinet shall conduct a hearing
- 8 pursuant to KRS Chapter 13B.
- 9 (4) The denial or revocation of certification shall be effective upon the final
- 10 decision of the secretary pursuant to KRS Chapter 13B.
- 11 (5) If the denial or revocation is upheld by the secretary, the assisted-living
- 12 community shall cease to operate and the assisted-living community shall:
- 13 (a) Assist clients in locating alternate living arrangements pursuant to KRS
- 14 194A.705(4); and
- 15 (b) Ensure that all clients are relocated within thirty (30) days of final notice of
- 16 revocation or denial.
- 17 (6) The commissioner of the department shall have the authority to extend the
- 18 time limit specified in subsection 5(b) of this section, not to exceed an additional fifteen
- 19 (15) days.

20 Section 12. Incorporated by Reference.

21 (1) The following material is incorporated by reference:

- 22 (a) "DAIL-ALC-1, Assisted-Living Community Certification Application", edition
- 23 11/07;

1 (b) "DAIL-ALC-2, Assisted-Living Community Certification Check List", edition
2 2/09; [~~11/07~~; and]

3 (c) "DAIL-ALC-3, Assisted-Living Community Statement of Noncompliance [~~Non-~~
4 ~~compliance~~] and Plan of Correction", edition 2/09; and

5 (d) "DAIL-ALC-4, Statement of Danger, edition 2/09 [11/07].

6 (2) This material may be inspected, copied, or obtained, subject to applicable
7 copyright law, at the Department for Aging and Independent Living, 275 East Main
8 Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.

910 KAR 1:240

REVIEWED:

Deborah S. Anderson Date
Commissioner
Department for Aging and Independent Living

APPROVED:

Janie Miller Date
Secretary
Cabinet for Health and Family Services

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on December 22, 2008, at 9:00 a.m. in the Administrative Hearing Branch Conference Room, 1st Floor of the CHR Building, 275 East Main Street, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by December 15, 2008, five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until close of business December 31, 2008. Send written notification of intent to be heard at the public hearing or written comments to:

CONTACT PERSON: Jill Brown, Office of Legal Services, 275 East Main Street 5W-B, Frankfort, Kentucky 40621, Phone: 502-564-7905, Fax: 502-564-7573.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Shirley Eldridge 564-6930 extension 3432

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes criteria for certification of assisted-living communities.

(b) The necessity of this administrative regulation: KRS 194A.707(1) requires the cabinet to promulgate an administrative regulation establishing an initial and annual certification review process for assisted-living communities.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation complies with KRS 194A.050(1) which states the secretary shall promulgate administrative regulations necessary to operate programs and fulfill the responsibilities vested in the cabinet. This administrative regulation provides an initial and annual certification review process for assisted-living communities pursuant to KRS 194.707(1).

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes a process related to applying for, reviewing, and approving, denying, or revoking certification, as well as the conduct of hearings upon appeals as governed by KRS Chapter 13B.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The amendment adds requirements for an assisted-living community to comply with if their client is found to be a danger upon a complaint or certification visit.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to help ensure that an assisted-living community is prepared to handle a danger issue.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment establishes a process that may revoke or deny an assisted-living community's certification in accordance with KRS 194A.707(1) if the department verifies a client residing in an assisted-living community is a danger and the danger is not

eliminated.

(d) How the amendment will assist in the effective administration of the statutes: The amendment establishes that certification may be denied or revoked if a danger is verified and an assisted-living community refuses to eliminate the danger after giving the opportunity for an informal dispute resolution or a hearing.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: There are approximately 94 assisted-living communities throughout the state.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The assisted-living community will, within forty-eight (48) hours, unless issued on a Friday and then at 4:30 p.m. of the next business day, of receiving the department's written findings that a client is a danger, submit a written response to the department confirming how the danger has been eliminated or why the danger is unsubstantiated, or initiate a move-out notice and begin assisting the client to find appropriate living arrangements pursuant to KRS 194A.404(4) and submit a written notice to the department that confirms the assisted-living community took the required action. If the department verifies the danger and the assisted-living community fails to implement these procedures, they will still have a right to an informal dispute resolution meeting or hearing if requested before denial or revocation may take place.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No additional cost.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Correction or removal of a danger will increase safety to the other residents of an assisted-living community. Also, the assisted-living communities will have better guidelines for certification, denial and revocation of certification.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: FY 09 \$118,262.69

(b) On a continuing basis: FY 10 \$120,000 approximately

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Restricted funds from certification fees of \$88,939.92 and additional general funds necessary to operate the program.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding is necessary to implement this administrative regulation. The fees in this administrative regulation are governed by KRS 194A.707(6).

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation establishes certification fees within the provisions found in KRS 194.707(6).

(9) TIERING: Is tiering applied? Tiering is not applied since policy is administered the same statewide.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation No. 910 KAR 1:240 Contact Person: Shirley Eldridge 564-6930 x 3432

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)?

Yes _X_____ No _____

If yes, complete questions 2-4.

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Department for Aging and Independent Living

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. 194A.050(1), 194A.707(1)

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This regulation will generate \$88,939.92 in certification fees for FY 08. The amendment will not generate additional revenue.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This regulation will generate \$88,939.92 in certification fees in subsequent years. The amendment, itself, will not generate additional revenue.

(c) How much will it cost to administer this program for the first year? FY 08 - \$118,262.69.

(d) How much will it cost to administer this program for subsequent years? Approximately \$120,000 for FY 09.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

COMMONWEALTH OF KENTUCKY
CABINET FOR HEALTH AND FAMILY SERVICES
DEPARTMENT FOR AGING AND INDEPENDENT LIVING

910 KAR 1:240 Certification of Assisted-Living Communities

Detailed Summary of Material Incorporated by Reference

1. "DAIL-ALC-2, Assisted-Living Community Certification Check List", edition 2/09. This form is used by department staff to document any noncompliance of KRS 194A.700 through 729 found during an on-site review and contains eight (8) pages. The form has been amended to add a new page eight (8) to document a noncompliance finding of a client being a danger to themselves or others.
2. "DAIL-ALC-3, Assisted-Living Community Statement of Noncompliance and Plan of Correction", edition 2/09. This form is used by department staff to submit the finding of non-compliance to the assisted-living community and by the assisted-living community to correct the noncompliance and contains one (1) page. This form has been amended to make technical changes.
3. "DAIL-ALC-4, Statement of Danger, edition 2/09. This is a new form that is used by department staff during a complaint or certification review if a client residing in the assisted-living community is found to be a danger. This form has two (2) pages.

A total of eleven (11) pages are incorporated into this administrative regulation by reference.