

Let's Talk: Assisted Living

Department for Aging and
Independent Living

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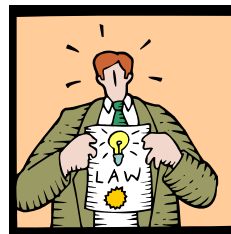
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March 11, 2009: Assisted Living Regulation Passes

The revised regulations cleared the House and Senate, Health and Welfare Committees. The revised regulation became effective on March 11, 2009 and as soon as the Legislative Research Commission (LRC) completes the language “clean up”, the department will post the regulation on our website at <http://chfs.ky.gov/dail/ALC.htm>. All communities have had two opportunities to receive training regarding the revisions to the regulation and the

department provided training on how we will enforce the regulations.

For annual certification reviews the department will begin enforcing the revised regulation requirements on April 1, 2009. If we receive a complaint that requires an on-site review the revised regulations will be enforced effective immediately. If there are any questions regarding the revised regulation or what is expected don't hesitate to contact the department for clarification.



Criminal Record Checks

The department has been contacted by a community regarding a complaint filed with the Department for Labor (DOL). The complaint was that the

assisted living was having the employee pay the cost of the criminal record check. According to the DOL, this is a violation of KRS 336.220 (1) and (2). According to KRS

336.220 (1) “It shall be unlawful for any employer to require any employee or applicant for employment to pay the cost of a medical (continued on page 2)

Key Changes in regulation:

- Statement of Danger
- 48 hour response to Statement of Danger
- Implement plan of correction

Criminal Record Checks, continued

examination or the cost of furnishing any records required by the employer as a condition of employment.”

Based on the community having all applicants pay the cost of the criminal record check they have been found in violation of KRS 336.220 and the DOL may be

conducting an audit for the past five (5) years and make the assisted living reimburse everyone that had to pay for the criminal record check.

The department has requested our general counsel to look at the language of KRS 336.220 and they concur with the DOL

that this relates to all records not just medical records.

Based on this information the department wanted to give all of the ALC’s the opportunity to look at how criminal record checks are paid for and determine if any changes need to be made in how criminal record checks are paid.

Documents: They all work together

It is important to realize that the required documents are the minimum requirements. They are the starting point in building the documents that protect the clients as well as the business needs of the community. A Functional Needs Assessment (FNA) that addresses all needs including total care or total assistance (which is

not appropriate for an ALC to provide) should have an instruction manual in place that addresses how the FNA is conducted, how often, what triggers a new assessment and what assistance is provided based on the category marked. This manual is not required by law but only makes sense to ensure that those who

conduct FNA’s do so consistently. The FNA, policies and procedures and the lease all work together to document the clients level of need and how the ALC provides assistance to help meet the client’s need or to help in determining when it is time to issue a move-out notice as specified in the lease.

Write policy and procedure to address the operations of the ALC and not just for certification reviews.

Watch Your Language

Several comments from the training were to provide a list of terminology that is generally not used in assisted living. While this list is not all inclusive it is representative of what we see. The first word is used

in health care settings and the second word is appropriate for ALC’s: License vs. Certification; Survey vs. Review; Surveyor vs. reviewer; Admission vs. Move-in; Transfer or Discharge vs. Move-out;

Bed hold vs. unit or apartment rental; Supervise or Monitor vs. Assist with.