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Subject: Legislation that passed in the 2022 General Assembly
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COMMONWEALTH of VIRGINIA

DEPARTMENT OF SOCIAL SERVICES

DATE: June 23, 2022

TO: Assisted Living Facilities

FROM: Tara Ragland,
Director, Division of Licensing Programs

SUBJECT: 2022 Legislative Information

The purpose of this memo is to inform you of the legislation that passed in the 2022 General Assembly session that affects assisted living facilities. This legislation becomes effective July 1 2022.

[Senate Bill 40](#)

This bill amends and reenacts § 63.2-1805, requiring DSS to adopt regulations to address involuntary discharge of assisted living facility residents. Involuntary discharge can only occur (i) when the resident's condition presents an immediate and serious risk to the health, safety, or welfare of the resident or others in accordance with § 63.2-1805 B.; (ii) for nonpayment of contracted charges, provided that the resident has been given at least 30 days to cure the delinquency after notice was provided; (iii) for failure of the resident to substantially comply with the terms and conditions of the resident agreement; (iv) if the facility closes; and (v) when the resident develops a condition or care need that is prohibited in accordance with § 63.2-1805 D.

Written discharge notice shall be provided to the resident, resident's legal representative or designated contact person, Virginia Department of Social Services (VDSS), and the State Long-Term Care Ombudsman at least 30 days prior to an involuntary discharge unless an emergency discharge is necessary due to an immediate and serious risk to the health, safety or welfare of the resident or others. The assisted living facility shall provide relocation assistance to the resident and the resident's legal representative.

VDSS shall establish a process that a resident or resident's representative may file an appeal of the decision to involuntarily discharge a resident. The facility shall provide a statement of the resident's right to continue to reside in the facility until a final VDSS case decision unless the discharge is an emergency discharge or the resident has developed a condition or care need that is prohibited by § 63.2-1805 D or regulation.

These requirements are not effective until the regulation *Standards for Licensed Assisted Living Facilities* is revised to add these new provisions. Notice and an effective date for the revised regulations will be given when the regulation changes are approved.

[House Bill 234](#)

A study of the current oversight and regulation of nursing homes, assisted living facilities, and other congregate living settings will be completed by October 1, 2022. The goal of the study is to improve efficiency and effectiveness of regulation and oversight; provide better transparency for members of the public navigating the process of receiving services; and better protect the health and safety of the public. DOLP will participate in this study.

Please contact your licensing inspector if you have any questions.