KENTUCKY SENIOR LIVING ASSOCIATION (KSLA)

FREQUENTLY ASKED QUESTIONS/ANSWERS & RECOMMENDED BEST PRACTICES FOR KENTUCKY ASSISTED LIVING COMMUNITIES

Preamble: The Frequently Asked Questions (FAQs) in this document are provided to help you understand and interpret specific issues related to applicable state/federal requirements, primarily KRS 194A.700-729 (Assisted Living Communities) and 910 KAR 1:240 (Certification of Assisted Living Communities). This document should only be used as a supplement to the statutory and regulatory language.

The statutes and regulations referenced are only intended to reflect KSLA's general understanding and therefore may indicate the outer parameters of what is permissible, and should not be relied upon as legal advice. A particular act permitted under statute or regulation may or may not be the most appropriate course of action or best practice in light of all relevant circumstances and factors for a given assisted living community (ALC) in Kentucky. KSLA's recommended best practices do attempt to take some circumstances and factors into consideration, including an ALC's mission, clients' needs, staff and policies. For more information, please contact the KSLA Office, (502) 938-5102.

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1.	Is it permissible to store a client's medication outside of the living unit or in a mobile cart?	Yes, if in accordance with proper documentation. The definition of assistance with self-administration of medication in KRS 194A.700 (3((a)3 states that medications shall "be stored in a manner requested in writing by the client or the client's designated representative and permitted by the assisted-living community's policies."	While the law allows storage of a client's medication outside of the living unit or in a mobile cart, this practice is not recommended due to potential concerns related to privacy, security and safety. However, if a client or the client's designated representative requests in writing that medication be stored outside of the living unit or in a mobile cart, and the ALC's policies permit that type of storage, an ALC should have applicable policies and procedures to safeguard the medications and the resident's privacy, security and safety.
2.	Is written documentation required for an ALC to provide assistance with self-administration of medication?	Yes. If a resident chooses for the ALC to provide assistance with self-administration of medication, KRS 194.700(3)(a)3 states that medication must "be stored in a manner requested in writing by the client or the client's designated representative and permitted by the assisted-living community's policies." If a resident designates a representative, 910KAR1:240(1)(6) requires "a document signed and dated by the client, client's guardian, or attorney-in-fact identifying a representative authorized to prepare or direct medication pursuant to KRS 194A.700(3)."	While the law permits the documentation to be in the resident's lease agreement, it is simpler if the required information is in a separate document that is not a part of the lease.

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3.	Can a client choose to use an automated medication dispenser?	Yes, so long as it is at the client's choosing, and the ALC complies with KRS 194A.700 related to assistance with self-administration of medication, i.e., employees don't fill the dispenser, nor remove or handle medication.	
4.	Can an ALC lock a client's medication in the client's living unit, if requested by the client?	Yes. If in accordance with proper documentation. The definition of assistance with self-administration of medication in KRS 194A.700(3)(a)3 states that medications must "be stored in a manner requested in writing by the client or the client's designated representative and permitted by the assisted-living community's policies."	It is recommended that an ALC have policy and procedures that address storage of medication.
5.	At a client's request, can an ALC employee apply nonprescription topical ointments, lotions, soaps and shampoos?	Yes. Applying over-the-counter topical ointments and lotions is permissible according to KRS 194A.700(3)(b)4.	It is recommended that an ALC ensure that topical ointments, lotions, soaps and shampoos are over-the-counter prior to applying.
6.	At a client's request, can an ALC employee administer nonprescription oral medications and eye drops?	No. The ALC is limited to assisting with self-administration of medication related to eye, ear or nasal drops, due to the potential for adverse health effects and decision-making that would constitute a health service, as defined in KRS 216B.015.	Although an ALC cannot instill (squeeze out) eye, ear, or nasal drops, employees can steady or guide the resident's hand while the resident is self-administering medications.

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7.	Can an ALC employee remove a pill or capsule from its container and hand it to the resident?	Yes. So long as the medication is preset in a medication organizer or single dose unit which includes the resident's name on the container and has been prepared or directed by the client, the client's designated representative, or a licensed healthcare professional who is not the owner, manager or employee of the ALC pursuant to KRS 194A.700 (3).	
8.	Does all medication have to be in a preset medication organizer or single dose unit container for ALC staff to assist with self-administration of medication?	No. Pursuant to 910 KAR1:240 7(2)(f), if medications are in bulk containers and not preset, staff assistance may include but not exceed the following actions if the client requests assistance: providing the client with a medication reminder; reading the medication's label to the client; and confirming that the medication is being taken by the client for whom it is prescribed, and opening the medication container or dosage package, but not handling or removing the medication. An ALC may choose to have policies that are more restrictive than the definition of self-administration of medications as per KRS 194A.700(3).	

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9.	Can an ALC employee steady or guide a client's hand when the client is self-administering medication?	Yes, pursuant to KRS 194A.700 (3)(b)3.	It is recommended that an ALC train its staff regarding the difference between steadying and guiding a resident's hand and administration of medication, which is prohibited.
10.	At a client's request, can an ALC employee take the client's medication to another location in the ALC?	Yes. This is a clerical service under the definition of instrumental activities of daily living (KRS 194.A.700)	It is recommended that this not be a common practice, due to potential concerns related to privacy, security, and safety.
11.	Can a client arrange for any outside entity of choice to administer medication?	Yes. KRS 194A.705 is not limiting in stating that clients of an ALC may arrange for additional services under direct contract or arrangement with an outside agent, professional, provider or other individual so designated by the client, if permitted by the policies of the ALC. However, per the definition of health services in KRS 216B.015, any person providing clinically-related services to two or more people is required to be licensed as a private duty nurse, home health agency or another applicable health care provider.	It is recommended that an ALC's policy regarding a client's right to arrange the additional services under direct contract or arrangement should stipulate the client is responsible for ensuring that any outside agent, professional, provider or other individual complies with this policy.
12.	Can ALC employees assist with self-administration of prescription dermal (skin) patches?	Yes. Pursuant to 194A.700 (3), an ALC employee is able to open the single dose package and steady or guide the resident's hand while the resident is self-administering.	

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13.	Can an ALC employee assist with self-administration of over-the-counter oral medications in a bulk container, such as vitamins, pain relievers, cold/allergy capsules, to a client?	Yes. Pursuant to 910KAR1:240(7)(2)(f), if the medications are in bulk containers and not preset, staff assistance may include but not exceed the following actions if the client requests assistance: providing the client with a medication reminder; reading the medication's label to the client; and confirming that the medication is being taken by the client for whom it is prescribed, and opening the medication container or dosage package, but not handling or removing the medication.	

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14.	Can an ALC employee assist with self-administration of PRN oral medications?	Yes, at the resident's request, if the medication is preset in a medication organizer or single dose unit which includes the resident's name on the container and has been prepared or directed by the client, the client's designated representative, or a licensed healthcare professional who is not the owner, manager, or employee of the ALC pursuant to KRS 194A.700 (3), staff may remind the client when to take the medication and observe to ensure that the client takes it as directed, hand the client's medication to the client, or if it is difficult for the client or the client requests assistance, open the unit dose or medication organizer, remove the medication from a medication organizer or unit dose container, close the medication organizer for the client, place the dose in a container, and place the medication or the container in the client's hand.	
15.	Can an ALC assist with the self-administration of liquid medications?	Yes, as long as ALC employees do not calculate liquid medication doses (measure), pursuant to KRS 194A.700(3)(e)2. (Same as 14 above.)	

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16.	Can an ALC document assistance with self-administration of medication?	Yes. Although documentation is not required under law, an ALC may document, so long as no decisions or advice are provided that would constitute a health service, as defined in KRS 216B.015.	It is recommended that an ALC maintain a document that is dated and initialed by the assigned staff member(s) and/or client when the client receives assistance with self-administration of medication, pursuant to the lease agreement (KRS 194A.713)
17.	At a client's request, is an ALC allowed to telephone, fax or deliver a written prescription to a pharmacy?	Yes. This is a clerical service under the definition of instrumental activities of daily living (KRS 194A.700)	
18.	At the client's request, can the ALC pick up medications at the pharmacy?	Yes. This is a clerical service under the definition of instrumental activities of daily living (KRS 194A.700)	
19.	May an ALC facilitate the filling of a preset medication container by a third party?	Yes. Pursuant to KRS 194A.700(3)(d), at the request of the client or the client's designated representative, an ALC may facilitate the filling of a preset medication container by a designated representative or licensed health care professional who is not the owner, manager, or employee of the ALC. This includes taking bulk medications to client's pharmacy to have them preset and communicating directly with the pharmacy or other healthcare provider.	Other than the case of an emergency, it is recommended that the ALC obtain written documentation of the requests from the client or designated representative.

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20.	Can employees of ALC's retrieve spilled nonliquid medications?	Yes. If the client requests this assistance, retrieving spilled nonliquid medication is a clerical function, so long as confirming that all medication has been retrieved is the sole responsibility of the client. If retrieved, the employee shall only provide assistance with self-administration of medication, i.e., the employee shall not place the retrieved medication in the client's hand if from a bulk container, because that would constitute administration of medication. If the medication is from a preset container, the employee may place the retrieved medication in the client's hand.	Determining potential contamination, use or disposal of the medication is the sole responsibility of the client.
21.	Does the locking of doors for delayed egress in an area such as a unit designed for clients with dementia constitute a health service, as defined in KRS 216B.015?	No. The locking of doors for delayed egress does not constitute a health service, as defined in KRS 216B.015. However, pursuant to KRS 194A.703, a client shall be provided access to central dining, a laundry facility, and a central living room.	

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22.	Under the NFPA Life Safety Code (LSC) can an ALC have delayed egress locks on its exit doors?	Yes. The 2006 LSC provides that approved, listed, delayed-egress locks shall be permitted to be installed on doors serving low and ordinary hazard contents in buildings protected throughout by an approved, supervised automatic fire detection system in accordance with Section 9.6 or an approved, supervised automatic sprinkler system in accordance with Section 9.7, and where permitted in Chapter 12 through Chapter 42, provided that specific criteria are met, including required signage.	
23.	What are the fire drill requirements for assisted living communities?	According to the State Fire Marshall, each ALC must have evacuation capability documentation that ensures at least six fire drills occur per year, based upon a bimonthly schedule, and with at least two held during inconvenient times, primarily sleeping hours. The alarm or smoke detectors must be used. While some exceptions do apply, actual evacuation is required, including the opportunity to use all required exits and means of escape.	It is recommended that an ALC have policies in place to address clients' safety and well-being after evacuating the building to deal with issues such as extreme weather conditions.
24.	Do fire drills have to be unannounced?	No.	

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25.	Is it required that an ALC complete an initial and updated functional needs assessment?	Yes. 910 KAR 1:240 requires that a functional needs assessment reflects a client's ability, pursuant to KRS 194A.711, to perform activities of daily living and instrumental activities of daily living. An ALC shall update the functional need assessment at least annually. The ALC shall provide copies of the initial, conducted upon move-in, and subsequent functional needs assessments to the client.	It is recommended that an ALC seek input from the client, key managers and direct caregivers regarding that client's functional need assessment. It is also recommended that an FNA is updated more frequently (as needed) to ensure any change of condition that effects ALC eligibility be reflected and accurate at all times.
26.	Does the functional needs assessment have to be updated if the client has directly arranged for ADL or IADL services to be provided under direct contract or arrangement?	Yes. Regardless of who provides ADL or IADL services, 910 KAR 1:240 requires that a functional needs assessment reflects a client's ability to perform ADL's and IADL's.	An ALC must ensure that the client is not a danger, regardless of who provides the ADL or IADL services. It is recommended that a resident receiving assistance with ADLs or IADLs from any outside agency be reflected in the FNA.

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27.	Does use of the term "total assistance" in a functional needs assessment mean that a client is a danger?	Not necessarily, depending on the client's situation. There are numerous examples of total assistance with IADL's, such as laundry or transportation, that don't mean the client is a danger. However, unrelated to danger, the client must be able to participate at least to some degree in every ADL and IADL. Pursuant to KRS 194A.700(2), assistance with activities of daily living and instrumental activities of daily living means any assistance provided by the ALC staff with the client having at least minimal ability to verbally direct or physically participate in the activity with which assistance is being provided.	It is recommended that an ALC avoid using the term "total assistance".
28.	Does the functional needs assessment have to be part of the lease?	No.	While the law permits the documentation to be in the resident's lease agreement, it is simpler if the required information is in a separate document that is not a part of the lease.
29.	Is it required that the FNA include verbiage stating the resident meets criteria for AL, KRS 194A.711?	No.	It is recommended that the FNA include verbiage stating the resident meets criteria for AL; KRS 194A.711.

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30.	Is the ALC required to use an admission criteria tool while assessing a resident for move-in?	No.	It is recommended that the ALC create an admission criteria tool or use the FNA when assessing a resident for move-in to gather important information regarding the potential resident.
31.	Do the KRS 194A.700 to 194A.729 regulations require separate assessment for cognitive function?	No.	Because cognitive function is vital in the assessment of safety, it is recommended that the ALC's FNA address cognitive function. The FNA should address the services and/or safety initiatives taken to address any potential danger.
32.	Do the KRS 194A.700 to 194A.729 regulations determine who can or cannot perform functional needs assessments?	No.	It is recommended that the ALC have a policy that designates who will complete assessments. Those performing assessments must demonstrate a thorough understanding of the regulations.
33.	Is it required that a copy of the initial and on-going assessments be given to the resident.	Yes. Under KRS 194A.705 a7b, a copy of the initial and all subsequent functional needs assessments must be provided to the residents.	It is recommended that the FNA have a signature line that verifies a copy was given to the resident at the completion of any FNA.

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34.	Is it required that the resident's ability to evacuate the community be addressed in the functional needs assessment?	No. However, 910 KAR 1:240 requires documentation in a client's file (i) from hospice or a licensed health care professional as defined by KRS 216.300(1), as applicable, and who is not the owner, manager, or employee of the ALC, requested of the client by the ALC that states the client has a temporary condition pursuant to KRS 194A.711(1), and (ii) from the ALC to ensure that the client is not a danger, including if hospice or similar end-of-life services are provided.	It is recommended that the resident's ability to evacuate the building be included in the ALC's emergency plan and reflected in the ALC's evacuation capability documentation. This can also be included in the FNA. If evacuation is supported by a third party or a plan of action for evacuation is necessary, the plan should be available and made part of the assessment process.
35.	Can an ALC request history and physical forms and other health-related documents from a client?	Yes. The law does not prohibit the ALC from requesting, and the client from providing, optional information helpful to identify services that meet the client's needs, so long as decisions are not being made, or advice being given, that constitute a health service, as defined in KRS 216B.015.	
36.	Is an ALC required to request that a client receive an assessment from an outside entity or health care provider?	No.	Under circumstances where it might be insightful, the ALC may find it prudent to request that a client receive an assessment from a health care provider to ensure that the client is not a danger remaining in the ALC.

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37.	Is specific information required to be collected in determining a client's personal preferences and social factors?	No, but KRS 194A.713 mandates that the lease agreement include information regarding personal preferences and social factors.	It is recommended that the ALC be able to demonstrate that its daily social activities address the general preferences of its clients, as required by KRS 194A.705. Conducting a written client survey may be a helpful tool to determine the clients' general preferences, and also to show that activities tailored to respond to those likes do address the clients' general preferences.
38.	Does the law limit assistance with transferring in an ALC?	No. Transferring is an activity of daily living as defined in KRS 194A.700. Pursuant to life safety codes, all clients must be able to safely evacuate during a fire or like emergency at any time. Any clients requiring assistance, such as with transferring or cueing, must be identified in the evacuation capability documentation and applicable staff training.	
39.	Does the law limit assistance with toileting in an ALC?	No. Toileting is an activity of daily living as defined in KRS 194A.700.	It is recommended that ALC employees be trained to understand that providing invasive bowel/bladder care or advice constitutes a health service (examples: enema, catheter, new ostomy), as defined in KRS 216B.015.

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40.	Does the law limit assistance with eating in an ALC?	No. Eating is an activity of daily living as defined in KRS 194A.700.	It is recommended that ALC employees should be generally aware that providing assistance with eating differs from feeding a client, and as a result, some nutritional interventions do constitute a health service (i.e., feeding tube), as defined in KRS 216B.015.
41.	Can an ALC accommodate a client's request for specific foods and/or fluids?	Yes. Accommodating a client's request if agreed to by the ALC, is not prohibited under KRS 194A.700-729. The employees must not provide clinical assessment or consultation that would constitute a health service, as defined in KRS 216B.015	
42.	Upon request by a client, can an employee of an ALC steady or guide the client's hand when the client is initiating and self-administering a blood sugar test?	Yes. Upon request by a client, an employee can steady or guide the client's hand when the client is initiating and self-administering the test. However, employees cannot interpret or advise the client on the clinical results of the test, nor calibrate the equipment. In addition, although the employee is only steadying or guiding the client's hand, it is feasible that OSHA or other federal standards could be applicable, due to the potential exposure and associated risks of blood spills, contamination, etc.	It is recommended that an ALC which allows employees to steady or guide a client's hand when the client is initiating and self-administering a blood sugar test should maintain policies & procedures and provide training on this service.

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43.	Can an ALC employee remove, empty, clean and replace the bag of a colostomy or catheter?	Yes. However, the employee must not provide clinical assessment or consultation that would constitute a health service, as defined in KRS 216B.015.	It is recommended that an ALC has applicable policies & procedures and training, and employees should be generally aware of what would otherwise constitute a health service, as defined in KRS 216B.015 when performing this function.
44.	Does turning a client in bed constitute a health service?	No. However, employees must not provide a clinical assessment or consultation that would constitute a health service, as defined in KRS 216B.015.	It is recommended that an ALC regard turning a client in bed as comparable to an ADL in which a client must be able to participate at least to some degree. Pursuant to KRS 194A.700(2), assistance with activities of daily living and instrumental activities of daily living means any assistance provided by the assisted-living community staff with the client having at least minimal ability to verbally direct or physically participate in the activity with which assistance is being provided.
45.	Can an ALC employee remove and reinsert a client's hearing aid?	Yes. Removing and reinserting a client's hearing aid is not an invasive function that constitutes a health service, as defined in KRS 216B.015.	
46.	Can an ALC employee assist a client in recording and transmitting pacemaker readings?	Yes. This is a clerical service under the definition of instrumental activities of daily living (KRS 194A.700). The employee must not provide clinical assessment or consultation that would constitute a health service, as defined in KRS 216B.015.	

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47.	Upon request, can an ALC employee replace oxygen equipment for a client?	Yes. However, the ALC employee cannot turn on/off the flow of oxygen, not recalibrate or adjust any concentration levels, because those functions would constitute a health service, as defined in KRS 216B.015.	It is recommended that ALC employees should be generally aware of what would otherwise constitute a health service, as defined in KRS 216B.015, and appropriate storage when performing this function.
48.	Is physical safety equipment, such as a safety belt on a wheelchair, prohibited in an ALC?	No. Physical safety equipment is not prohibited, so long as it is the client's decision, the client is not a danger and he/she can safely evacuate in the case of an emergency, including the ability to self-release the physical safety equipment whenever necessary or desired.	It is recommended that, if a client requires physical safety equipment, an ALC should carefully re-evaluate the client's overall needs to ensure that he/she is not a danger.
49.	What type of first aid can an ALC employee provide for a client?	First aid does not constitute a health service, as defined in KRS 216B.015. With the client's consent and to the extent that the client is unable, the employee may render first aid (i.e., initially clean wound area, apply topical ointment and adhesive bandage, apply ice/heat, etc.) First aid does not include ongoing treatment.	
50.	If desired by a client, can an ALC provide wellness checks for clients such as taking vitals and weights?	Yes. However, interpretations and advice that constitute a health service, as defined in KRS 216B.015, shall not be made or communicated by the ALC employee.	

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51.	If desired by a client, can an ALC maintain documentation on wellness checks provided to a client, such as vital signs and weights?	Yes. This is a clerical service under the definition of instrumental activities of daily living (KRS 194A.700). Interpretations and advice shall not be made or given, respectively, by the ALC employees if such interpretations and advice constitute a health service, as defined in KRS 216B.015.	It is recommended that wellness check documentation be provided to the client rather than being maintained by the ALC.
52.	As referred to in KRS 194A.711, what is a "temporary condition"?	Pursuant to 910 KAR 1:240 1 (15), "temporary condition" means a condition that affects a client as follows: (a) The client loses mobility either before or after entering a lease agreement with the ALC, but is expected to regain mobility within six (6) months of loss of ambulation or mobile non-ambulation is documented by a licensed healthcare professional who is not the owner, manager, or employee of the ALC and the ALC has a written plan in place to ensure that the client is not a danger; or (b) The client loses mobility after entering a lease agreement; the client is not expected to regain mobility; hospice or similar end-of-life services are provided in accordance with KRS 194A.705(2) documented by hospice or a licensed health care professional, and the ALC has a written plan in place to ensure that the client is not a danger.	

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53.	What documentation is required for a client who has a temporary condition, including a client who is receiving hospice or similar end-of-life services?	910 KAR 1:240 requires documentation in a client's file (i) from hospice or a licensed health care professional as defined by KRS 216.300(1), as applicable, and who is not the owner, manager, or employee of the ALC, requested of the client by the ALC that states the client has a temporary condition pursuant to KRS 194A.711(1); and (ii) from the ALC to ensure that the client is not a danger, including if hospice or similar end-of-life services are provided.	It is recommended the ALC should request from a client that documentation from a licensed health care professional or hospice, as applicable, verify that the services being provided ensure the client is not a danger. Additionally, the ALC should avoid documenting clinical statements that would constitute a health service, as defined in KRS 216B.015.

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54.	If a client is non-ambulatory or mobile non-ambulatory due to a temporary condition, can ALC employees provide assistance with ambulation during this temporary period?	Yes. Kentucky statutes don't prohibit assistance with ambulation when a client is non-ambulatory or mobile non-ambulatory due to a temporary condition, so long as the client is not a danger. Pursuant to KRS 194A.717, the ALC must ensure staffing is sufficient in number and qualification to meet the 24 hour scheduled needs of each client pursuant to the lease agreement and functional needs assessment, including a client who needs assistance with ambulation due to a temporary condition. Pursuant to life safety codes, all clients must be able to safely evacuate during a fire or like emergency at any time. Any clients requiring assistance or cueing must be identified in the evacuation capability documentation and applicable staff training.	
55.	Is an ALC required to implement its most recent approved plan of correction?	Yes. 910 KAR 1:240 states that certification may be revoked if an ALC fails to implement its most recent approved plan of correction under current ownership and within the plan of correction's specified timetable.	It is recommended that an ALC's plan of correction should carefully outline attainable action to correct an area of noncompliance within a realistic time frame, without making unrealistic or unnecessary assurances.

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56.	Is DAIL required to immediately notify an ALC of a finding of danger during a complaint or certification review?	Yes. 910 KAR 1:240 requires that DAIL immediately notify the ALC during the on-site meeting and provide the DAIL-ALC-4, Statement of Danger.	It is recommended that the ALC request as much information as possible during the on-site meeting and attempt to satisfactorily resolve the alleged danger prior to DAIL's departure.
57.	If DAIL finds a danger, when does an ALC have to begin to implement a plan to correct that danger?	910 KAR 1:240 requires that, within 48 hours, unless issued on a Friday and then by 4:30 p.m. eastern standard time of the next business day, of receiving the DAIL-ALC-4 Statement of Danger, the ALC shall begin to implement a plan to correct the danger and shall submit a written response to DAIL. The response must confirm how the danger has been eliminated, why the danger is disputed or that a move-out notice has been initiated and the ALC has begun the process of assisting the client to find appropriate living arrangements.	It is recommended that before beginning to implement a plan and responding in writing to DAIL, the ALC clearly understand what finding of danger DAIL has issued. This may require more fact finding to determine the most appropriate next step.

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58.	Does an ALC have informal and formal appeal rights to dispute a finding of danger if DAIL upholds its initial finding after receiving the ALC's written response?	Yes. If, after reviewing the ALC's written response, DAIL determines the client remains a danger, DAIL shall notify the ALC in writing that: (a) Certification may be denied or revoked. (b) The ALC has the right to an informal dispute resolution meeting: 1. Between DAIL and the ALC. 2. For the purpose of attempting to resolve a dispute, including the provision of additional documentation or support materials, and 3. To be requested by the ALC in writing within three business days of receiving DAIL's written notice, and (c) It has appeal rights pursuant to Section 11 of this administrative regulation if: 1. An informal dispute resolution meeting is not requested, or 2. A dispute is not resolved with the informal dispute resolution meeting.	

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59.	Can DAIL issue a finding that an ALC is providing a health service, as defined in KRS 216B.015?	Yes. DAIL can issue the finding and is required under law to report to the Office of Inspector General any alleged or actual cases of health services being delivered. DAIL may withhold certification until the ALC discontinues the provision of the alleged health service.	
60.	Is an ALC required to perform CPR?	No. An ALC may choose not to perform CPR, so long as the ALC has documentation that the client has received the written policy pursuant to 910 KAR 1:240.	It is recommended that an ALC ensure that all residents, prospective clients and employees are fully informed of the community's respective policy and procedures concerning CPR.
61.	Is an ALC required to provide training on CPR to employees?	Yes, unless the policies of the Assisted Living Community state that this procedure is not initiated by its staff, and that clients and prospective clients are informed of the policies, pursuant to 910 KAR 1:240.	It is recommended that an ALC ensure that all employees are fully informed of the community's respective policy and procedures concerning CPR.
62.	Is an ALC required to adhere to a client's advance directive, pursuant to KRS 311.621-643?	No.	It is highly recommended that an ALC disclose to clients and prospective clients its policy related to recognizing advance directives, if applicable.
63.	Is an ALC required to document its orientation and in-service education?	Yes. 910 KAR 1:240 requires an ALC to have documentation on orientation and in-service education, as applicable to each employee's assigned duties.	

	FREQUENTLY ASKED QUESTION	STATE/FEDERAL REQUIREMENTS	KSLA'S RECOMMENDED BEST PRACTICE
64.	Does a specific deadline apply for completing orientation education for employees?	Yes. Pursuant to 910 KAR 1:240 orientation shall be completed within 90 days.	It is recommended that, prior to providing direct services to a client, employees should receive orientation education on client rights, community policies, adult abuse/neglect and emergency procedures.
65.	Does a new employee, including a rehire who has already received orientation on some or all of the required topics, have to repeat that training?	Yes. KRS 194A.719 requires that ALC staff and management shall receive orientation on specific topics, as applicable to the employee's assigned duties.	
66.	Is ongoing in-service education required for an employee?	Yes. 910 KAR 1:240 requires that in-service education shall be provided on an annual basis. KRS 194A.719(2) requires that assisted living community staff and management shall receive annual in-service education applicable to their assigned duties that addresses no fewer than four (4) of the topics listed in KRS 194A.719(1).	

	FREQUENTLY ASKED QUESTION	STATE/FEDERAL REQUIREMENTS	KSLA'S RECOMMENDED BEST PRACTICE
67.	Can an ALC employee "moonlight" to provide services under direct arrangement with a client, including health services?	Yes. Subject to an ALC's own policy, the law doesn't prohibit an employee from "moonlighting" to provide services under direct arrangement with a client. However, per the definition of health services in KRS 216B.015, any person providing clinically-related services to two or more people is required to be licensed as a private duty nurse, home health agency or another applicable health care provider.	KSLA does not recommend the practice of "moonlighting", due to the potential for noncompliance with KRS 194A.700-729 and applicable state/federal labor laws, as well as the need to avoid the appearance of impropriety.
68.	Can an ALC employ licensed health care professionals, such as nurses?	Yes. However, as ALC employees, those professionals may not provide a health service, as defined by KRS 216B.015.	Care should be taken when establishing the professional's role and writing the job description to recognize that any person, regardless of credentials, who is employed by an ALC may not provide a health service, as defined by KRS 216B.015.

	FREQUENTLY ASKED QUESTION	STATE/FEDERAL REQUIREMENTS	KSLA'S RECOMMENDED BEST PRACTICE
69.	What is the ALC's responsibility when issuing a client a move-out notice?	Pursuant to KRS 194A.705 and KRS 194A.713, the ALC shall issue a move-out notice in writing. The assisted living community shall assist each client upon a move-out notice to find appropriate living arrangements. Each assisted living community shall share information provided from the department regarding options for alternative living arrangements at the time a move-out notice is given to the client. ALCs should discuss additional options known to its staff for alternative living arrangements.	ALCs should develop their own resource base on alternative living arrangements in their service area. If an ALC needs further information, contact DAIL at (502) 564-6930.
70.	Does an ALC have to provide any interested person with a copy of KRS 194A. 700 to 194Q.729 and relevant administrative regulations?	Yes, pursuant to KRS 194A.715.	KSLA's "Providing Choice" publication includes the required information.
71.	Can an ALC use the term "client", "resident", or "tenant" in a lease agreement or other documents?	Yes	

	FREQUENTLY ASKED QUESTION	STATE/FEDERAL REQUIREMENTS	KSLA'S RECOMMENDED BEST PRACTICE
72.	Is an ALC required to check the state's Nurse Aide Abuse Registry, Adult Protective Services Caregiver Misconduct Registry, and the Central Registry for Child Abuse?	Yes. 910 KAR 1:240, Section 7, Para (2) (b) 3 states: Employees, upon their initial date of hire and at least annually thereafter shall be checked and not be found on any of these registries.	KSLA recommends the KARES program where these registries are checked daily by the national background check program, and therefore do not have to be checked annually.
73.	What are the requirements for a policy on reporting and recordkeeping of alleged and actual cases of abuse, neglect and exploitation of an adult under KRS 209.030.	Pursuant to KRS 194A.709 (2), the only requisite components of a record keeping policy are the date and time of the report, the reporting method, and a brief summary of the alleged incident.	KSLA recommends reporting any actual cases of abuse to the Adult Protective Services and to the abuse registries.

	FREQUENTLY ASKED QUESTION	STATE/FEDERAL REQUIREMENTS	KSLA'S RECOMMENDED BEST PRACTICE
74.	Does the law require an ALC to conduct criminal record checks on employees?	Yes. KRS 216.785-793 requires that criminal record checks be conducted on applicants for employment. 910 KAR 1:240 Section 7 (2) (b) 2. A criminal records check is required no sooner than forty-five (45) days prior to but no later than seven (7) days following an employee's first day of work. The criminal record is checked every other year through the Kentucky Justice Cabinet or Administrative Office of the Courts. A check is done upon hire from any state the employee lived outside of Kentucky in the last three (3) years and at least every other year from the state the employee resides if the employee maintains residency outside of Kentucky.	KSLA recommends the KARES program where criminal records are checked daily by the Kentucky State Police and the FBI. When you are in the national background check program (KARES), you do not have to do a criminal record check every other year. It is done automatically by KARES.
75.	Do you have to use the Kentucky Justice Cabinet or Administrative Office of the Courts to conduct criminal records checks?	No. An assisted living community may use Kentucky's national background check program (KARES) established by 906 KAR 1:190 to satisfy the background check requirement.	
76.	Are on-site certification reviews unannounced?	Yes. Except for the initial certification review, which is announced.	

	FREQUENTLY ASKED QUESTION	STATE/FEDERAL REQUIREMENTS	KSLA'S RECOMMENDED BEST PRACTICE
77.	Are certification reviews of ALCs a matter of public record?	Yes, in summary format. Pursuant to KRS 194A.707 (9), DAIL shall submit to the Legislative Research Commission and make available to any interested person at no charge, by June 30 of each year, in summary format, all findings from certification reviews conducted during the prior twelve (12) months.	
78.	Are all on-site certification reviews of an ALC conducted annually?	No, not all. Pursuant to KRS 194A.707(2), an on-site visit of an assisted living community shall be conducted by the cabinet: (a) As part of the initial certification review process; (b) On a biennial basis as part of the certification review process if during or since the previous review an ALC has not received: 1. Any statement of danger, unless withdrawn by the cabinet; or 2. A finding substantiated by the cabinet that the ALC delivered a health service.	
79.	Can an ALC be cited for failing to follow the community's policies, practices and procedures, it is otherwise in compliance with all related requirements?	No. Pursuant to KRS 194A.707 (11), failure to follow an assisted living community's policies, practices and procedures shall not result in a finding of noncompliance unless the assisted living community is out of compliance with a related requirement under KRS 194A.700 to KRS 194A.729.	

	FREQUENTLY ASKED QUESTION	STATE/FEDERAL REQUIREMENTS	KSLA'S RECOMMENDED BEST PRACTICE
80.	Under what circumstances shall an ALC's certification be denied or revoked?	Certification shall be denied or revoked if: (a)(1) DAIL determines upon a complaint or certification review that an ALC knowingly employed an individual convicted of an offense prohibited by KRS 216.789(1) or 216.789(2) as disclosed by the individual's employment application or a criminal records check and if the ALC fails to immediately terminate the employment upon DAIL's finding; or (2) The same repeat violation of knowingly employing a prohibited individual is found by DAIL within a three year period; or (b) An ALC or applicant fails to submit a plan of correction to DAIL as specified in the regulation.	
81.	Under what circumstances, unrelated to a citation of danger or an ALC's failure to implement its most recent plan of correction, may certification be denied or revoked?	Certification may be denied or revoked if an ALC: (a) Fails to apply for certification as specified in the regulation; (b) Submits a completed DAIL-ALC-1, ALC Certification Application more than 15 days late for two consecutive years; or (c) Fails to submit a completed DAIL-ALC-1, ALC Certification Application within 30 days of July 1.	KSLA recommends that an ALC complete the DAIL-ALC-1, ALC Certification Application on or before June 30 each year with the required fee.

	FREQUENTLY ASKED QUESTION	STATE/FEDERAL REQUIREMENTS	KSLA'S RECOMMENDED BEST PRACTICE
82.	Can a business that has been denied or had its certification revoked operate or market its service as an assisted living community?	No. Pursuant to 194A.707 (4), no business that has been denied or had its certification revoked shall operate or market its service as an assisted living community unless it has; (a) Filed a current application for the business to be certified by the department as an assisted living community; and (b) Received certification as an assisted living community from the department. Revocation of certification may be grounds for the department to not reissue certification for one (1) year if ownership remains substantially the same.	

	FREQUENTLY ASKED QUESTION	STATE/FEDERAL REQUIREMENTS	KSLA'S RECOMMENDED BEST PRACTICE
83.	Does the regulation provide for an informal dispute resolution process for non-danger citations?	Yes. 910 KAR 1:240 stipulates that, if DAIL determines, after reviewing the amended plan of correction, that certification may be denied or revoked, DAIL shall notify the ALC within 10 business days of the determination and with the: (a) Opportunity for an informal dispute resolution meeting: 1. Between: a. DAIL; and b. The ALC; 2. To be held within 15 days of the ALC's receipt of the notice; and 3. To address a dispute, including the provision of additional documentation or support materials. In addition, the ALC has the right to an administrative hearing if an informal dispute resolution meeting is not requested, or a dispute is not resolved with the informal dispute resolution meeting.	

	FREQUENTLY ASKED QUESTION	STATE/FEDERAL REQUIREMENTS	KSLA'S RECOMMENDED BEST PRACTICE
84.	Can DAIL impose fines on ALC's for non-compliance?	Yes. An assisted living community that is issued more than two (2) statements of danger on separate dates within a six (6) month period that are not withdrawn by the department may be fined up to five hundred dollars ($500).	
85.	Is an ALC required to comply with the federal HIPAA requirements related to a health care provider's electronic transmission of confidential health care information and billing data?	No. The federal HIPAA requirements related to electronic submission of confidential health care information, within the context of this question, apply to health care providers that electronically submit the federally-specified information and billing data. Assisted living communities in Kentucky are not classified as health care providers.	
86.	What is required of an ALC that increases or decreases the number of living units?	910 KAR 1:240 states that, if there is an increase in the number of living units, an ALC shall reapply for certification with DAIL not less than 60 days prior to the increase. The certification fee will be prorated. If there is a decrease in the number of living units, an ALC shall notify DAIL within 60 days of the decrease.	

	FREQUENTLY ASKED QUESTION	STATE/FEDERAL REQUIREMENTS	KSLA'S RECOMMENDED BEST PRACTICE
87.	Can an ALC use the terminology "personal care" in its marketing literature, documents and activities?	Kentucky law doesn't expressly prohibit an ALC from using the term "personal care" but using the term "personal care home" is strictly prohibited unless the business is licensed as a personal care home.	An ALC should refrain from using the term "personal care" in its marketing literature, documents and activities, so as to avoid confusing and/or misleading consumers and potentially violating Kentucky statutes/regulations.
88.	Are assisted living communities subject to OSHA requirements?	Yes. As employers, assisted living communities must comply with OSHA's general industry standards, recordkeeping, etc. In addition, because ALC employees may be exposed during the course of their work duties to blood or other potentially infectious material (OPIM), the community must also have an exposure control plan and other related measures to comply with the bloodborne pathogens standard.	
89.	Can a multi-level campus that includes an ALC have joint marketing materials?	Yes. To ensure truth in advertising, the materials should clearly delineate the services offered in each level of care on the campus.	It is recommended that, to avoid confusing consumers, a multi-level campus that includes an ALC should use clear headings in joint marketing materials to label each level of care, with the services unique to each level listed below each heading.

	FREQUENTLY ASKED QUESTION	STATE/FEDERAL REQUIREMENTS	KSLA'S RECOMMENDED BEST PRACTICE
90.	Can a multi-level campus that includes an ALC have a single lease agreement?	Yes. KRS 194A.700-729 does not prohibit an ALC from sharing a single lease agreement, so long as that document complies with KRS 194A.713.	It is recommended that, given the specificity of KRS 194A.713, an ALC should refrain from using a single lease agreement for multiple levels of care on the same campus.
91.	Can a multi-level campus that includes an ALC combine policies and procedures in the same manual?	Yes. KRS 194A.700-729 does not prohibit an ALC from having a combined policies and procedures manual, so long as the ALC complies with all statutory and regulatory requirements.	It is recommended that, given the specificity of KRS 194A.700-729 and 910 KAR 1:240, an ALC should refrain from combining the same policies and procedures for multiple levels of care on the same campus. If an ALC chooses to combine its policies and procedures with those for other levels of care on the same campus, it is essential that differing policies and procedures be clearly labeled according to which level of care they apply.
92.	Can the employees of a multi-level campus that includes an ALC participate in joint training?	Yes. The training must ensure the ALC's compliance with the orientation and in-service education requirements of KRS 194A.719.	

	FREQUENTLY ASKED QUESTION	STATE/FEDERAL REQUIREMENTS	KSLA'S RECOMMENDED BEST PRACTICE
93.	Is a separate criminal records check required for an ALC employee for whom a prior criminal records check was conducted on the same multi-level campus under common ownership?	No, so long as the original criminal record check is in compliance with KRS 216.789(3) and applied for no sooner than forty-five (45) days prior to but no later than seven (7) days following an employee's first day of work. However, if the ALC is a different legal entity/ownership than other levels of care on the same campus, an additional criminal records check would be required.	
94.	Are employees from other levels of care on a multi-level campus that includes an ALC prohibited from working in the ALC?	No. Pursuant to KRS 194A.717, the ALC must ensure staffing is sufficient in number and qualification to meet the 24 hour scheduled needs of each client pursuant to the lease agreement and functional needs assessment, and that one awake staff member is on site at all times. However, all campus employees who work any hours in an ALC must be in full compliance with all ALC staff requirements, even if they primarily work in another level of care.	With all other employee requirements satisfied, it is at the ALC's discretion regarding what other persons, including employees from other levels of care on the same campus, are allowed to work in the ALC