



STATE OF NEW YORK DEPARTMENT OF HEALTH

161 Delaware Avenue

Delmar, NY 12054-1393

Richard F. Daines, M.D.
Commissioner

Wendy E. Saunders
Executive Deputy Commissioner

April 13, 2009

DAL: ***HCBS 09-06***
Subject: ***Licensure and Certification Requirements
for Assisted Living Residences***

Dear Administrator:

This letter advises home care agencies of the licensure and certification requirements for assisted living residences (ALRs).

When evaluating referrals, home care agencies should be aware of the licensure status of the potential patient's residence and appropriateness of the potential patient for home care services. Section 763.5 of 10NYCRR and 42 CFR 484.16 for Certified Home Health Agencies (CHHAs) and Long Term Home Health Care Programs (LTHHCPs), or 10 NYCRR 766.3 (a)(b) for Licensed Home Care Services Agencies (LHCSAs) require agencies to admit only patients for whom care can be adequately and safely delivered in the patient's residence.

Background

New York State, through the State Department of Health, licenses and regulates adult care facilities (adult homes and enriched housing) which provide long-term residential care and services to adults who are unable to live independently. Regulations governing adult homes and enriched housing may be found in Parts 485-488 of 18NYCRR. Home care agencies have historically provided services to residents of adult care facilities whose service needs exceed those services expected to be provided by the ACF. Article 46-B of Public Health Law enacted in 2005, also known as the Assisted Living Reform Act, establishes definitions and requirements for assisted living. The Assisted Living Reform Act creates several new licensing: Assisted Living Residence (ALR), Enhanced Assisted Living Residence (EALR) and Special Needs Assisted Living Residence (SNALR); and outlines the general requirements for these types of facilities. Regulations addressing these provider types are found in 10 NYCRR 1001.1 through 1001.16. Facilities which meet the definition for assisted living and/or use the term "assisted living" must be licensed by the Department. For purposes of determining the necessity to become licensed as an adult home, enriched housing program or assisted living facility, the regulations also define independent senior housing and services which may be provided by independent senior housing without requiring Department of Health licensure. Home care agencies may also provide services in assisted living residences or independent senior housing communities.

Assessment of the Home Environment

Home care agencies should ascertain what specific type of living arrangement a proposed patient resides in and what type of licensure the operator of the facility has been granted. Home care providers should acquaint themselves with the requirements such facilities must meet as outlined on the Department's website (www.health.state.ny.us) in order to effectively assess, plan and coordinate the home care patient's plan of care and the delivery of services.

The referral of a proposed patient who resides in an unlicensed adult care facility or assisted living situation must be carefully evaluated by the home care agency to ensure its ability to provide care that maintains patient safety and promotes optimal outcomes of care for the individual patient. Unlicensed providers might not meet essential service requirements that the home care agency might assume are met. Some services provided by approved facilities such as personal care are not within the scope of unlicensed facilities and may be violations of Department of Health regulations as well as the State Education Law.

Concerns regarding the licensure status of a congregate living situation or the appropriateness and safety of the living situation that have precluded the home care agency's acceptance of the referred person should be addressed to the Home Health Hotline at (1-800-628-5972).

Additional Information

If you have questions or need additional information on this directive, please contact the New York State Department of Health, Division of Home and Community Based Services, Bureau of Home Care/Hospice Surveillance and Quality Indicators/Evaluation at hmhscsurv@health.state.ny.us.

Sincerely,

A handwritten signature in black ink, reading "Rebecca Fuller Gray". The signature is fluid and cursive, with the first name "Rebecca" being the most prominent.

Rebecca Fuller Gray
Director
Bureau of Home Care/Hospice Surveillance
and Quality Indicators/Evaluation