

Office of Regulatory Management
Economic Review Form

Agency name	State Board of Social Services
Virginia Administrative Code (VAC) Chapter citation(s)	22VAC40-73
VAC Chapter title(s)	Standards for Licensed Assisted Living Facilities
Action title	Promulgation of Regulation to Implement Chapter 706 of the 2022 Acts of Assembly
Date this document prepared	February 19, 2025
Regulatory Stage (including Issuance of Guidance Documents)	Proposed

Cost Benefit Analysis

Complete Tables 1a and 1b for all regulatory actions. You do not need to complete Table 1c if the regulatory action is required by state statute or federal statute or regulation and leaves no discretion in its implementation.

Table 1a should provide analysis for the regulatory approach you are taking. Table 1b should provide analysis for the approach of leaving the current regulations intact (i.e., no further change is implemented). Table 1c should provide analysis for at least one alternative approach. You should not limit yourself to one alternative, however, and can add additional charts as needed.

Report both direct and indirect costs and benefits that can be monetized in Boxes 1 and 2. Report direct and indirect costs and benefits that cannot be monetized in Box 4. See the ORM Regulatory Economic Analysis Manual for additional guidance.

Table 1a: Costs and Benefits of the Proposed Changes (Primary Option)

<p>(1) Direct & Indirect Costs & Benefits (Monetized)</p>	<p>Direct Costs:</p> <ul style="list-style-type: none"> Chapter 706 of the Acts of the General Assembly in 2022 requires the Department of Social Service (DSS) to establish a process for resident appeals of involuntary discharge decisions in an assisted living facility. All changes are mandated by this legislation. The DSS Office of Appeals and Fair Hearings will hire two staff to process assisted living facilities (ALF) involuntary discharge appeals. The two staff are a Senior Hearing Officer and an Administrative Technician. The cost for the staff is \$187,708 for fiscal year 2025 and \$187,708 each year thereafter. <p>Indirect Costs:</p> <ul style="list-style-type: none"> The DSS Division of Licensing Programs will need to upgrade the licensing information system to track and monitor ALF involuntary discharges and appeals. The estimated one-time cost is \$500,000 for fiscal year 2025. <p>Direct Benefits: There are no monetized direct benefits with this proposed change.</p> <p>Indirect Benefits: There are no monetizable indirect benefits with this change.</p>	
<p>(2) Present Monetized Values</p>	<p>Direct & Indirect Costs</p>	<p>Direct & Indirect Benefits</p>
	<p>(a) \$687,708</p>	<p>(b) \$0</p>
<p>(3) Net Monetized Benefit</p>	<p>-\$687,708</p>	
<p>(4) Other Costs & Benefits (Non-Monetized)</p>	<p>Costs:</p> <ul style="list-style-type: none"> There will be initial costs for ALF to update their policies and procedures for the written notice and involuntary discharge requirements of this legislation. There will be costs to ALF if there is an appeal. ALF could incur costs for attorney fees for representation during the appeal or for allowing a resident to reside in the facility during the appeal process. Attorney fees for an appeal could range from \$1500-\$4000 depending on the time involved for the appeal. The cost ALF incur depend on the number of appeals, which is unknown since appealing discharges from ALF will be a new process. ALF could incur costs associated for maintaining the health and safety of a resident while continuing to reside in the facility during the appeal process. It is unknown what these costs would be, and the 	

	<p>resident would remain under a resident agreement and would be charged for services.</p> <ul style="list-style-type: none"> Following an involuntary or emergency discharge notice, ALF could incur costs associated with relocation assistance if a resident needs support. Additional costs could include ALF staff resources if the ALF provides the assistance, or the cost of a third party to pack, move, and transport a resident’s belongings. Relocation assistance for a third party to pack, move, and transport a resident’s belongings could cost \$600-\$4000 depending on the volume of the resident’s belongings and the distance to the new facility. The cost ALF incur would depend on the number of involuntary or emergency discharges and the number of residents requiring relocation assistance. <p>Benefits:</p> <ul style="list-style-type: none"> Residents and their families will benefit by allowing the resident to be maintained at the assisted living facility resulting in consistent care and this will increase the time to locate another appropriate placement if discharge is the result of the appeal. <p>This legislation requires ALF to assist residents and their families with locating to another facility, which will increase the likelihood of finding the appropriate facility to meet the residents’ needs.</p>
(5) Information Sources	2022 Special Session I, Virginia Acts of Assembly, Chapter 2, Item 348 .

Table 1b: Costs and Benefits under the Status Quo (No change to the regulation)

(1) Direct & Indirect Costs & Benefits (Monetized)	<p>Direct Costs: There are no costs by maintaining the status quo for continuing to have no appeal process for ALF residents that are involuntary discharged.</p> <p>Indirect Costs: There are no monetizable indirect costs with this maintaining the status quo.</p> <p>Direct Benefits: There are no monetizable direct benefits with maintaining the status quo.</p> <p>Indirect Benefits: There are no monetizable indirect benefits with maintaining the status quo.</p>	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) \$0	(b) \$0
(3) Net Monetized Benefit	\$0	

(4) Other Costs & Benefits (Non-Monetized)	<p>Costs:</p> <ul style="list-style-type: none"> Maintaining the status quo of not having an appeal process does not allow the family to address and resolve problems with the facility and there is no way for the resident and family to contest the discharge. <p>Benefits:</p> <p>There are no non-monetized benefits associated with maintaining the status quo.</p>
(5) Information Sources	

Impact on Local Partners

Use this chart to describe impacts on local partners. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

Table 2: Impact on Local Partners

(1) Direct & Indirect Costs & Benefits (Monetized)	<p>Direct Costs:</p> <ul style="list-style-type: none"> As of January 10, 2025, there are eight ALF operated by local partners. Direct costs for local partners would be record keeping and to update the facility’s procedures on discharges. It is anticipated that cost would be absorbed by current staff. The appeal process for involuntary discharge could result in the locally operated ALF to incur costs for any attorney fees if there are appeals and to maintain the resident’s health and safety during the appeal. Attorney fees for an appeal could range from \$1500-\$4000 depending on the time involved for the appeal. There is no information to formulate how many involuntary discharges will occur and how many of those involuntary discharges will be appealed. A locally operated ALF could incur costs associated with relocation assistance if a resident needs support following an involuntary or emergency discharge. Additional costs could include ALF staff resources if the ALF provides assistance, or the cost of a third party to pack, move, and transport a resident’s belongings. Relocation assistance for a third party to pack, move, and transport a resident’s belongings could cost \$600-\$4000 depending on the volume of the resident’s belongings and the distance to the new facility. The cost ALF incur depend on the number of involuntary or emergency discharges and the number of residents requiring relocation assistance. <p>Indirect Costs: There are no monetizable indirect costs.</p> <p>Direct Benefits: There are no monetizable direct benefits.</p>
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	Indirect Benefits: There are no monetizable indirect benefits.	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) \$0-See above (1)	(b) \$0
(3) Other Costs & Benefits (Non-Monetized)	There is no other non-monetized costs and benefits.	
(4) Assistance	The DSS will provide the staff to administer the appeal process. No other assistance will be provided to local partners.	
(5) Information Sources		

Impacts on Families

Use this chart to describe impacts on families. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

Table 3: Impact on Families

(1) Direct & Indirect Costs & Benefits (Monetized)	Direct Costs: There is no direct costs to families. Indirect Costs: There is no indirect costs to families. Direct Benefits: There is no direct benefits to families. Indirect Benefits: There is no indirect benefits to families.	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) \$0	(b) \$0
(3) Other Costs & Benefits (Non-Monetized)	There are no non-monetized costs to the families. Benefits: <ul style="list-style-type: none"> The appeal process will allow residents and families more time for discharge planning, resulting in finding the appropriate placement to meet the resident’s needs. 	

	<ul style="list-style-type: none"> • The appeal process will allow any issues or problems to be addressed and remedied to allow the resident to continue to reside in the facility to prevent placement disruption and consistent services. • The residents will have assistance with discharge planning if needed.
(4) Information Sources	

Impacts on Small Businesses

Use this chart to describe impacts on small businesses. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

Table 4: Impact on Small Businesses

(1) Direct & Indirect Costs & Benefits (Monetized)	<p>Direct Costs:</p> <ul style="list-style-type: none"> • As of January 10, 2025, there are 564 ALF with eight of the facilities being operated by local agencies. DSS does not collect information on whether the facilities are small businesses but estimates that over half of the ALF are small businesses. • The appeal process for involuntary discharges could result in ALF to incur costs for any attorney fees and to maintain the resident’s health and safety during the appeal. Attorney fees for an appeal could range from \$1500-\$4000 depending on the time involved for the appeal. There is no information to formulate how many involuntary discharges will occur and how many of those involuntary discharges will be appealed. • ALF could incur costs associated with relocation assistance if a resident needs support following an involuntary or emergency discharge. Additional costs could be the ALF staff resources if the ALF provides the assistance, or the cost of a third party to pack, move, and transport a resident’s belongings. Relocation assistance for a third party to pack, move, and transport a resident’s belongings could cost \$600-\$4000 depending on the volume of the resident’s belongings and the distance to the new facility. The cost ALF incur depend on the number of involuntary or emergency discharges and the number of residents requiring relocation assistance <p>Indirect Costs: There are no monetizable indirect costs.</p> <p>Direct Benefits: There are no monetizable direct benefits.</p> <p>Indirect Benefits: There are no monetizable indirect benefits.</p>	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits

	(a) \$0-See above (1)	(b) \$0
(3) Other Costs & Benefits (Non-Monetized)	There are no non-monetized cost and benefits.	
(4) Alternatives	There is no alternative since the requirement for the resident’s right to appeal is from Chapter 706 of the Acts of the General Assembly (2022)	
(5) Information Sources		

Changes to Number of Regulatory Requirements

Table 5: Regulatory Reduction

For each individual action, please fill out the appropriate chart to reflect any change in regulatory requirements, costs, regulatory stringency, or the overall length of any guidance documents.

Change in Regulatory Requirements

VAC Section(s) Involved*	Authority of Change	Initial Count	Additions	Subtractions	Total Net Change in Requirements
430	(M/A):	0	1		+1
	(D/A):	0			
	(M/R):	8	9		+9
	(D/R):	19		7	-7
435-New section	(M/A):		2		+2
	(D/A):		3		+3
	(M/R):		4		+4
	(D/R):				
				Grand Total of Changes in Requirements:	(M/A): +3 (D/A): +3 (M/R): +13 (D/R): -7

DSS explanation: In section 430, several discretionary requirements that are found in other state agency regulations were removed from this regulation. Requirements in section 430 now focus on statutory requirements in § 63.2-1805 A 5. Several items in the current version of the regulation which previously were discretionary, are now statutory, as a result of code changes in § 63.2-1805 A.

Key:

Please use the following coding if change is mandatory or discretionary and whether it affects externally regulated parties or only the agency itself:

(M/A): Mandatory requirements mandated by federal and/or state statute affecting the agency itself

(D/A): Discretionary requirements affecting agency itself

(M/R): Mandatory requirements mandated by federal and/or state statute affecting external parties, including other agencies

(D/R): Discretionary requirements affecting external parties, including other agencies

Cost Reductions or Increases (if applicable)

VAC Section(s) Involved*	Description of Regulatory Requirement	Initial Cost	New Cost	Overall Cost Savings/Increases

Other Decreases or Increases in Regulatory Stringency (if applicable)

VAC Section(s) Involved*	Description of Regulatory Change	Overview of How It Reduces or Increases Regulatory Burden

Length of Guidance Documents (only applicable if guidance document is being revised)

Title of Guidance Document	Original Word Count	New Word Count	Net Change in Word Count

*If the agency is modifying a guidance document that has regulatory requirements, it should report any change in requirements in the appropriate chart(s).