



Department of Health

KATHY HOCHUL
Governor

JAMES V. McDONALD, M.D., M.P.H.
Acting Commissioner

MEGAN E. BALDWIN
Acting Executive Deputy Commissioner

April 25, 2023

DAL# DACF 23-15
Subject: Changes to Admission and
Retention Regulations

Dear Adult Care Facility Administrator:

This Dear Administrator Letter (DAL) revises prior guidance issued by the Department of Health (“Department”) in DALs 14-07 (“[Assisted Living Program] ALP Chairfast Bill”), 15-08 (“ALP Eligibility”), 18-16 (“Amended NYCRR Regulations”). It was brought to the Department’s attention that some adult care facilities (ACFs) were interpreting the Department’s regulations to operate as an absolute bar on the admission and retention of individuals who use wheelchairs or have other mobility impairments.

Recent regulatory changes were made to the admission and retention standards to make clear that individuals with mobility impairments have the right to access ACF programs, and that accommodations can and should be made where reasonable. **These regulations are effective immediately.**

This DAL also provides guidance and seeks to assist facilities in understanding:

- The fair housing rights of current and prospective ACF residents (see Attachment A);
- What a reasonable accommodations request is, what to consider, and generally how to respond (see Attachment A);

Further, all ACFs should:

- adopt a non-discrimination statement that contains, at a minimum, the language of the attached model policy (see Attachment B);
- adopt a reasonable accommodation policy that contains, at a minimum, the language of the attached model policy and use of the accompanying request form (see Attachment C); and
- post a United States Department of Housing and Urban Development poster in a common area at their facility (see Attachment D).

Reports of non-compliance with State regulations governing the operation of New York State licensed ACFs are taken seriously and will trigger an investigation or other regulatory response from the Department.

The Department will hold a webinar on this DAL on **May 4, 2023 at 2:00pm**, during which the Department will offer further guidance to ACFs. To register, please visit: <https://meetny.webex.com/weblink/register/r8c1b8585bc8e587935756420e063eb08>. The webinar will be recorded and posted, along with answers to ACF-submitted questions, on the Adult Care Facilities and Assisted Living portion of Department’s public website for future

reference. Additionally, the Department intends to create an educational video on this topic which it will also post online. Please look for a notice from the Department when the video is available.

This DAL should not be used as legal guidance. If you have legal questions on any of these topics, we suggest that you seek the advice of counsel.

Sincerely,

A handwritten signature in blue ink that reads "Kelly Ann Anderson". The signature is written in a cursive style with a large, looping flourish at the end.

Kelly Ann Anderson, Director
Division of Adult Care Facility
and Assisted Living Surveillance

Attachments

cc: A. Herbst
K. Marks
V. Deetz
H. Hayes
S. McGarvey
K. Walker
T. Hennige