



# DHMH

Maryland Department of Health and Mental Hygiene

Office of Health Care Quality

Spring Grove Center • Bland Bryant Building

55 Wade Avenue • Catonsville, Maryland 21228-4663

Martin O'Malley, Governor – Anthony G. Brown, Lt. Governor – John M. Colmers, Secretary

## TRANSMITTAL

TO: Maryland Assisted Living Providers and Stakeholders

FROM: Wendy Kronmiller, Director

RE: Threshold for Licensure under Assisted Living Laws 09-AL-03 --revised

DATE: March 30, 2009

The Office of Health Care Quality (OHCQ) has determined that there are homes seeking licensure that may not require state approval as assisted living programs. This observation is based on years of on-site observation by nurse surveyors and other health professionals that have identified resident care needs below that which require our approval and licensure, as set forth in Maryland law and the definition of "assisted living program." Md. Code Ann. HG 19-1801. An assisted living program provides services to meet the needs of individuals "who are unable to perform or who need assistance in performing the activities of daily living or instrumental activities of daily living..." "Activities of daily living" are normal daily activities, including eating or being fed, grooming, bathing and hygiene, mobility, ambulation, toileting, and dressing in clean, weather-appropriate clothing. COMAR 10.07.14.02 (B)(2).

Whether or not a provider requires a license depends upon the specific, case by case needs of the individuals in the home. A license is not required for a provider who serves exclusively individuals who are dependent on the provider only for room, board, and the control and security of their medication. Please keep in mind though that a license is required if you serve even one individual who needs assistance with activities of daily living. Participation of a resident in the Medicaid Older Adults Waiver would also mandate that you be licensed. If a resident also attends an Adult Medical Day Care Program, it would be most likely that the person would also require assisted living services.

Several examples of medical diagnoses or care needs which would likely trigger the need for licensure are identified to assist you:

- A diabetic needs finger sticks to measure blood sugars to decide how much insulin to give. The term "sliding scale" is often used in this situation to describe this method of dosing insulin.

- There is a wound or sore on the skin that needs to be monitored or have medicine, ointments, or dressings supplied by someone other than the resident.
- A resident needs help with bathing, walking, transferring, going to the bathroom or getting dressed.

These are included as examples, but there are more medical conditions or care needs which may require assisted living services. Please keep in mind that a resident may develop a medical condition as he or she ages that would require the provider to obtain a license.

If you are currently serving or planning to serve individuals who are only dependent on you for room, board and the control and security of their medication, we need your cooperation to ensure that this policy protects the individuals you serve and at the same time avoids unnecessary regulation of your activities. If a decision is made that your program no longer requires licensure, it will be incumbent on you to promptly contact this office should the care needs of an individual you serve increase to the level where an assisted living program license would be required or if you serve new residents who require assisted living services. In this circumstance we will be available to consult with you regarding the specifics of the care required and determine an appropriate course of action.

The OHCQ appreciates that you may have questions regarding the status of your home and/or the care needs of those you serve. Please contact Ms. Roslyn Tyson, Licensing Coordinator at 410-402-8189 if questions arise, and we will work with you to review your residents' needs and determine the need for continued licensure.

Your cooperation is sincerely appreciated.

**Transmittal No: AL-09-05**