

ARKANSAS REGISTER

Transmittal Sheet

Use only for **FINAL** and **EMERGENCY RULES**



Secretary of State

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For Office

Use Only:

Effective Date _____ Code Number _____

Name of Agency Department of Human Services

Department Division of Provider Services & Quality Assurance

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Statutory Authority for Promulgating Rules Arkansas Code §§ 20-10-203, 20-10-705, 20-76-201, 20-77-107, and 25-10-129

Rule Title: Minimum Dementia Training Requirements pursuant to Act 335 of 2023

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☐ 10 Days After Filing (ACA 25-15-204)

☒ Other January 1, 2024
(Must be more than 10 days after filing date.)

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Final Date for Public Comment

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Adopted by State Agency

Date

09/22/2023

10/21/2023

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Electronic Copy of Rule e-mailed from: (Required under ACA 25-15-218)

Toni Roy

Toni.Roy@dhs.arkansas.gov

December 15, 2023

Contact Person

E-mail Address

Date

CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted
In Compliance with the Arkansas Administrative Act. (ACA 25-15-201 et. seq.)



Signature

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Phone Number

E-mail Address

Director, Division of Provider Services & Quality Assurance

Title

December 15, 2023

Date

300 **DEFINITIONS**

As used in these rules, the following definitions shall apply unless the context clearly states otherwise. Where these rules refer to an enactment of the General Assembly, such reference shall include subsequent enactment or amendments by the General Assembly on the same subject matter.

Abuse – Shall have the same meaning as prescribed by Ark. Code Ann. § 5-28-101 and 42 CFR §488.301. “Abuse” also includes sexual abuse as defined in Ark. Code Ann. § 5-28-101 (12).

Activities of Daily Living – The activities of daily living that are performed either independently, with supervision, with assistance, or by others. Activities of daily living include, but are not limited to, ambulating, transferring, grooming, bathing, dressing, eating and toileting.

ADA – The Americans with Disabilities Act.

Administrator – The person who has successfully completed a course of training or instruction certified by the Department as an assisted living facility administrator who is in charge of the daily operation of the facility. Until programs have been certified by the Department, Residential Care Facility Administrators or Nursing Home Administrators may be used.

Advertise – To make publicly and generally known. For purposes of this definition, *advertise* includes, but is not limited to:

1. Signs, billboards, or lettering;
2. Electronic publishing or broadcasting, including the use of the Internet or e-mail; and
3. Printed material.

Alzheimer’s Special Care Unit (ASCU) – A separate and distinct unit within an Assisted Living or other Home and Community-Based Services (HCBS) facility that segregates and provides a special program for residents with a diagnosis of probable Alzheimer’s disease or related dementia; that advertises, markets, or otherwise promotes the facility as providing specialized Alzheimer’s or related dementia care services.

Assisted Living Facility (ALF) – Any building or buildings, section or distinct part of a building, boarding home, home for the aged, or other residential facility whether operated for profit or not, that undertakes through its ownership or management to

provide assisted living services for a period exceeding twenty-four (24) hours to more than three (3) adult residents of the facility who are not relatives of the owner or administrator. Assisted living facility means facilities in which assisted living services are provided either directly or through contractual arrangements or in which contracting in the name of residents is facilitated.

Assisted Living Program – A program of assisted living services.

Assisted Living Services – Housing, meals, laundry, social activities, assistance with transportation, direct care services, health care services, twenty-four (24) hour supervision and care, limited nursing services, for purposes of these rules, *assistance with transportation* means making arrangements for transportation.

Caregiver – Shall have the same meaning prescribed by Ark. Code Ann. § 5-28-101.

Choice – Viable options available to a resident that enables the resident to exercise greater control over his or her life. Choice is supported by resident's self-directed care (including methods and scheduling) established through the care planning process, and the provision of sufficient private and common space within the facility to provide opportunities for residents to select when and how to spend time, and when and how to receive personal or assisted living services.

Common Areas (for Alzheimer's Special Care Units) – Portions of the Alzheimer's Special Care Unit, exclusive of residents' rooms and bathrooms.

Common areas include any facility grounds accessible to residents of the Alzheimer's Special Care Unit.

Compliance Agreement – If needed, the written formal plan developed in consideration of shared responsibility, choice and assisted living values and negotiated between the resident or his or her representative and the assisted living facility to avoid or reduce the risk of adverse outcomes that may occur in an assisted living environment.

Continuous – Available at all times without cessation, break or interruption.

Covered direct service staff member – This definition is pertinent to dementia training requirements listed in sections 504.5 and 504.6. A covered staff member means a staff member whose work involves extensive contact with residents or program participants. Covered direct service staff members include certified nursing assistants, nurse aides, personal care assistants, personal care aides, licensed practical nurses, licensed vocational nurses, registered nurses, activity directors, and staff members who provide direct patient care to residents.

Deficiency – A facility's failure to meet program participation requirements as defined in these and other applicable rules and laws.

Dementia – A loss or decrease in intellectual ability that is of sufficient severity to

interfere with social or occupational functioning; it describes a set of symptoms such as memory loss, personality change, poor reasoning or judgment, and language difficulties.

Department – The Department of Human Services (DHS) and its divisions and offices.

Direct Care Services – Services that directly help a resident with certain activities of daily living such as assistance with mobility and transfers; assistance provided to a resident to consume a meal, grooming, shaving, trimming or shaping fingernails and toenails, bathing, dressing, personal hygiene, bladder and bowel requirements, including incontinence, or assistance with medication, only to the extent permitted by the state Nurse Practice Act and interpretations thereto by the Arkansas State Board of Nursing.

Direct Care Service Plan – A written plan for direct care services that is developed to meet the needs and preferences of the resident or his or her representative through a negotiated process that becomes a part of the resident's occupancy admission agreement.

Direct Care Staff – Any licensed or certified staff acting on behalf of, employed by, or contracted by the facility, to provide services and who provides direct care services or assistance to residents, including activities of daily living and tasks related to medication administration or assistance.

Direct Care Staff (Alzheimer's Special Care Unit) – An individual who is an employee of the facility, or an individual who is an employee of a temporary or employment agency assigned to work in the facility, who has received or will receive, in accordance with these rules, specialized training regarding Alzheimer's or related dementia, and who is responsible for providing direct, hands-on care or cuing services to residents of the ASCU.

Direct Contact – The ability or opportunity of employees of the facility, or individuals with whom the facility contracts, to physically interact with or be in the presence of residents.

Direct Threat – A significant risk to the health or safety of self or others that cannot be eliminated by reasonable accommodation. This term as used in these rules is designed to ensure conformity with the Americans with Disabilities Act (ADA) in determining whether a person with a disability poses a "direct (health or safety) threat".

Directed Plan of Correction – A plan developed by the Department that describes the actions the facility will take to correct deficiencies and specifies the date by which those deficiencies will be corrected.

Discharge – When a resident leaves the facility, and it is not anticipated that the

resident will return. A discharge occurs when a return to the facility by the resident requires that admission procedures set forth in these rules be followed.

Disclosure Statement (Alzheimer's Special Care Unit) – A written statement prepared by the facility and provided to individuals or their representatives, and to individual's families, prior to admission to the ASCU, disclosing the form of care, treatment, and related services especially applicable to, or suitable for residents of, the ASCU.

Elopement – Circumstances where a resident, who has been identified as being cognitively impaired, has left a facility without staff knowledge. Facilities must comply with all reporting requirements of any special programs in which they participate.

Emergency Measures – Those measures are necessary to respond to a serious situation that threatens the health and safety of residents.

Endangered Adult – Shall have the same meaning as prescribed by Ark. Code Ann. § 5- 28-101 and as amended.

Exploitation – Shall have the same meaning as prescribed by Ark. Code Ann. § 5-28-101.

First Aid Measures – Temporary interventions necessary to treat trauma or injury.

Health Care Service Plan – A written plan for health care services that is developed to meet the needs and preferences of the resident or his or her representative through a negotiated process that becomes a part of the resident's occupancy admission agreement.

Health Care Services – The provision of services in an assisted living facility that assists the resident in achieving and maintaining well-being (e.g., psychological, social, physical, and spiritual) and functional status. This may include nursing assessments and the monitoring and delegation of nursing tasks by registered nurses pursuant to the Nurse Practice Act and interpretations thereto by the Arkansas State Board of Nursing, care management, records management and coordinating basic health care and social services in such settings. Health care services may not be provided in a Level I Assisted Living Facility except as provided in Section 702 of these rules.

Home Health Services – Home health aide services, medical supplies suitable for use in the resident's assisted living facility apartment, and nursing services as defined in the state Nurse Practice Act and interpretations thereto by the Arkansas State Board of Nursing.

IDR – The informal dispute resolution process as described in these rules.

Imminent Danger to Health and Safety – Shall have the same meaning as prescribed by Ark. Code Ann. § 5-28-101.

Impaired Adult – Shall have the same meaning as prescribed by Ark. Code Ann. § 5-28-101.

Independence – The maintenance and promotion of resident capabilities to enhance the resident's preferences and choices within a barrier-free environment.

Individual Assessment Team (IAT) – A group of individuals possessing the knowledge and skills to identify the medical, behavioral, and social needs of residents of the Alzheimer's Special Care Unit (ASCU), and to develop services designed to meet those needs.

Individual Support Plan – A written plan developed by an Individual Assessment Team (IAT) that identifies services to a resident of the Alzheimer's Special Care Unit (ASCU).

Limited Nursing Services – Acts that may be performed by licensed personnel while carrying out their professional duties, but limited to those acts that the department specified by rule. Acts that may be specified by rule as allowable limited nursing services shall be for persons who meet the admission criteria established by the Department for facilities offering assisted living services, shall not be complex enough to require twenty-four (24) hour nursing supervision and may include such services as application and care of routine dressings, and care of casts, braces, and splints.

Assisted Living I License – A time-limited, non-transferable, permit required by Ark. Code Ann. § 20-10-224 and issued for a maximum period of twelve (12) months to a licensee who complies with the Department rules. This document must list the maximum number of beds for the facility.

Medication Assistance and Monitoring – Services provided by the facility, either directly or through contract, in accordance with the Nurse Practices Act and interpretations thereto by the Arkansas State Board of Nursing, designed to ensure that residents receive necessary or prescribed medication, and to prevent wastage of medication.

Mental Abuse – Verbal, written, or gestured communication, to a resident, or to a visitor or staff, about a resident within the resident's presence, or in a public forum, that a reasonable person finds to be a material endangerment to the mental health of a resident.

Neglect – Shall have the same meaning as prescribed by Ark. Code Ann. § 5-28-101 and 42 C.F.R. §488.301.

New Admission – An individual who is being admitted to the facility for the first time, or who is returning after a formal discharge.

Non-Compliance – Any violation of these rules, or of applicable law or rules.

Nurse Practice Act – As used in these rules, the term *Nurse Practice Act* refers to Ark. Code Ann. §17-87-101 *et seq.* and interpretations thereto by the Arkansas State Board of Nursing.

Operator – The individual or entity that conducts the business of the facility. The individual or individuals executing the licensure application form shall be deemed an operator.

Office of Community Services (OCS)– The Office within the Division of Provider Services and Quality Assurance of the Department of Human Services (DHS) that has the responsibility for the licensure, certification, and rules, of (HCBS) facilities, herein referred to as the Department or OCS.

Person – An individual, partnership, association, corporation, or other entity.

Personnel, Staff, or Employee – Any person who, under the direction, control, or supervision of facility administration, provides services as defined in these rules for compensation, or who provides services voluntarily, and may include the owner, operator, professional, management and persons, firms, or entities providing services pursuant to a contract or agreement.

Plan of Correction (P-o-C) – A plan developed by the facility and approved by the Department that describes the actions the facility will take to correct deficiencies, and which specifies the date by which those deficiencies will be corrected.

PRN – A medication or treatment prescribed by a medical professional to a person, allowing the medication or ointment to be given “as needed”.

Program Requirements – The requirements for participation and licensure under these and other applicable rules and laws as an assisted living facility.

Proprietor or Licensee – Any person, firm, corporation, governmental agency, or other legal entity, issued an assisted living facility license, and who is responsible for maintaining approved standards.

Protective Services – Shall have the same meaning as prescribed by Ark. Code Ann. § 5-28-101.

Provisional Licensure is a temporary grant of authority to the purchaser to operate an existing facility upon application for licensure to the Department.

Provisional Placement – Placement in an assisted living facility made for the purposes of assessment to determine appropriateness of admission or emergency, such as placement by law enforcement or Adult Protective Services. A provisional placement shall be permitted for no longer than thirty (30) days, at which time the resident must either be discharged or admitted to the facility in conformity with these rules. A provisional placement shall not be an admission pursuant to these rules, and any individual in an assisted living facility pursuant to a provisional placement shall not be deemed a resident of the facility.

Representative or Responsible Party – An individual, who, at the request of the applicant or resident, or by appointment by a court of competent jurisdiction, agrees to act on behalf of a resident or applicant for the purposes of making decisions regarding the needs and welfare of the resident or applicant. These rules, and this definition, does not grant or permit, and should not be construed as granting or permitting, any individual authority or permission to act for or on behalf of a resident or applicant in excess of any authority or permission granted by law. A competent resident may select a representative or may choose not to select a representative. In no event may an individual act for, or on behalf of, a resident or applicant when the resident or applicant has a legal guardian, attorney-in-fact, or other legal representative. For purposes of these rules only, representatives will also refer to the terms, *responsible party*, *guardian*, *power of attorney* or similar phrase.

Separate Premises – Buildings housing Assisted Living Facility operations that are located on non-contiguous land.

Significant Change – Any improvement or decline in a resident's medical, physiological, psychological, or social condition, in which:

- a. The decline cannot be reasonably expected to resolve itself; or,
- b. In which the decline may cause a worsening of another or pre-existing medical, physiological, psychological, or social condition.

Substandard Quality of Care – One (1) or more deficiencies related to participation requirements, as set forth in these or other applicable rules or laws, that constitute either immediate jeopardy to resident health or safety; a pattern of, or widespread actual harm, that is not immediate jeopardy; or a widespread potential for more than minimal harm, but less than immediate jeopardy, with no actual harm.

Survey – The process of inspection, interviews, or record reviews, conducted by the Department.

Standard Survey - A comprehensive survey conducted by the Department on an average of every eighteen (18) months for each facility.

Transfer – The temporary or permanent relocation of a resident from one living unit within the facility to another living unit within the facility, or the temporary relocation of a resident to a location outside the facility.

Twenty-Four (24) Hour Nursing – Services that are ordered by a physician or advance practice nurse for a resident whose condition requires the supervision of a physician or advance practice nurse and continued monitoring of vital signs and physical status and whose condition is medically complex enough to require onsite nursing supervision on a twenty-four (24) hour per day basis.

Visually and Functionally Distinct Area – A space that can be distinguished from other areas within the apartment by sight. A visually and functionally distinct area need not be a separate room. To create a visually distinct area, one or more of the following methods must be employed: change in ceiling height, separation by ceiling soffit(s) or wall returns, change in flooring color, partial height partitions or counters, use of alcoves, use of permanent screening devices such as columns or fixed screens. In the case of an “L” shaped studio apartment or unit, kitchenettes and living areas may be combined and bedroom areas may be in a leg of an “L” shaped plan and qualify without additional separation methods.

400 LICENSURE

504.4 All staff including contracted personnel who provide services to residents, excluding licensed home health agency staff, shall receive orientation and training on the following topics within the time frames specified herein:

a. Within seven (7) calendar days of hire:

1. Building safety and emergency measures, including safe operation of fire extinguishers and evacuation of residents from the building;
2. Appropriate response to emergencies;
3. Abuse, neglect, and financial exploitation and reporting requirements;
4. Incident reporting;
5. Sanitation and food safety;
6. Resident health and related problems;
7. General overview of the job's specific requirements;
8. Philosophy and principles of independent living in an assisted living residence.
9. Residents' Bill of Rights;

b. Within thirty (30) calendar days of hire:

1. Medication assistance or monitoring;
2. Communicable diseases, including AIDS or HIV and Hepatitis B; infection control in the residence and the principles of universal precautions based on OSHA guidelines;

c. Within one-hundred eighty (180) calendar days of hire:

1. Communication skills;
2. Review of the aging process and disability sensitivity training.

504.4.1 All staff and contracted providers having direct contact with residents and all food service personnel shall receive a minimum of six (6) hours per year of ongoing education and training to include in-service and on-the job training designed to reinforce the training set forth in Section 504.4(a)(b)(c).

504.5 The facility shall provide dementia training for all covered staff members within ninety (90) days of hire. Facilities shall:

- a. Establish procedures for ongoing staff support regarding the treatment and care of persons with dementia, which shall include on-site mentoring programs and other support mechanisms.
- b. Identify and designate standardized trainings, including online trainings that meet the requirements of dementia training.
- c. Maintain a certificate in the employee's personnel file upon completion of training. It shall be portable between settings within the state.
- d. Ensure if a covered staff member has a lapse of twenty-four (24) consecutive months or more, the initial dementia training is repeated.
- e. Ensure staff members are informed that they are responsible for maintaining their documentation.
- f. Ensure a covered staff member is trained adequately and appropriately to best address the needs of the person served.
- g. Ensure that each direct service staff member and a covered administrative staff member complete four (4) hours of initial training.

504.6 Dementia training shall be culturally competent for covered staff members and persons with Alzheimer's disease and dementia.

- a. Dementia training relative to Section 504.5 shall include principles of person-centered dementia care including:
 1. Thorough knowledge of persons with Alzheimer's disease and dementia and their abilities and needs;
 2. Methods for ensuring optimal functioning and quality of life including how to use problem-solving approaches to care, and techniques that ensure and preserve a resident's respect, values, choice, and dignity.
- b. The curriculum used for the initial training shall cover the following topics:
 1. Alzheimer's disease and other dementias;
 2. Person-centered care;
 3. Assessment and care planning;
 4. Activities of daily living; and
 5. Dementia-related behaviors and communication.

- c. The curriculum for a covered administrative staff member for the initial training shall also cover the following additional topics:
 - 1. Medical management information, education, and support;
 - 2. Staffing;
 - 3. Supportive and therapeutic environments; and
 - 4. Transitions and coordination of services.
- d. Dementia training for other covered staff members shall include, at a minimum:
 - 1. An overview of Alzheimer's disease and other dementias;
 - 2. Principles of person-centered care; and
 - 3. Dementia-related communication issues
- e. The individual providing the training shall possess:
 - 1. No less than two (2) years of work experience related to Alzheimer's disease or other dementias or in health care, gerontology, or another related field;
 - 2. A minimum of two (2) years of general nursing experience including at least one (1) year of nursing services in a nursing facility setting or an assisted living facility within the last five (5) years; or
 - 3. A minimum of two (2) years of experience as an administrator in an assisted living facility or a facility that provides direct care to persons with dementia; and
 - 4. Does not have any disciplinary action regarding their license by the licensing entity or authority.

General nursing experience may include without limitation employment in a nursing assistant education program or employment in or supervision of nursing students in a nursing facility or unit, geriatrics department excluding a geriatric psychiatry department, long-term acute care hospital, home healthcare, hospice care, or other long-term care or home and community-based settings.

- f. Two (2) hours of continuing education will be provided on an annual basis and will include information on best practices in the treatment and care of persons with dementia.

504.7 Facility staff, administrators and owners are prohibited from being appointed as, or acting as, guardian of the person or the estate, or both, for residents of the facility.

300 DEFINITIONS

As used in these rules, the following definitions shall apply unless the context clearly states otherwise. Where these rules refer to an enactment of the General Assembly, such reference shall include subsequent enactment or amendments by the General Assembly on the same subject matter.

Abuse – Shall have the same meaning as prescribed by Ark. Code Ann. § 5-28-101 and 42 CFR §488.301. “Abuse” also includes sexual abuse as defined in Ark. Code Ann. § 5-28-101 (12).

Activities of Daily Living – The activities of daily living that are performed either independently, with supervision, with assistance, or by others. Activities of daily living include, but are not limited to, ambulating, transferring, grooming, bathing, dressing, eating and toileting.

ADA – The Americans with Disabilities Act.

Administrator – The person who has successfully completed a course of training or instruction certified by the Department as an assisted living facility administrator who is in charge of the daily operation of the facility. Until programs have been certified by the Department, Residential Care Facility Administrators or Nursing Home Administrators may be used.

Advertise – To make publicly and generally known. For purposes of this definition, *advertise* includes, but is not limited to:

1. Signs, billboards, or lettering;
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3. Printed material.

Alzheimer’s Special Care Unit (ASCU) – A separate and distinct unit within an Assisted Living or other Home and Community-Based Services (HCBS) facility that segregates and provides a special program for residents with a diagnosis of probable Alzheimer’s disease or related dementia; that advertises, markets, or otherwise promotes the facility as providing specialized Alzheimer’s or related dementia care services.

Annual – A twelve month period preceding the last required action. Unless a date certain is specified in the law or regulation requiring the action (e.g., the International Building Code – IBC) the action may be taken any time during the month in which

it is due. Actions which are required to be taken every five years may be taken any time during the month in which they are due.

Ancillary Services – A service that is not included in the basic core services of the resident's occupancy agreement and which is provided by the facility or under arrangement with an outside service provider. The ancillary service may or may not be provided for a charge to the resident.

Assisted Living Facility (ALF) – Any building or buildings, section or distinct part of a building, boarding home, home for the aged, or other residential facility whether operated for profit or not, that undertakes through its ownership or management to provide assisted living services for a period exceeding twenty-four (24) hours to more than three (3) adult residents of the facility who are not relatives of the owner or administrator. Assisted living facility means facilities in which assisted living services are provided either directly or through contractual arrangements or in which contracting in the name of residents is facilitated.

Assisted Living Program – A program of assisted living services.

Assisted Living Services – Housing, meals, laundry, social activities, assistance with transportation, direct care services, health care services, twenty-four (24) hour supervision and care, and limited nursing services, for purposes of these rules, *assistance with transportation* means making arrangements for transportation.

Caregiver – Shall have the same meaning prescribed by Ark. Code Ann. § 5-28-101.

Choice – Viable options available to a resident that enables the resident to exercise greater control over his or her life. Choice is supported by resident's self-directed care (including methods and scheduling) established through the care planning process, and the provision of sufficient private and common space within the facility to provide opportunities for residents to select when and how to spend time, and when and how to receive personal or assisted living services.

Common Areas (for Alzheimer's Special Care Units) – Portions of the Alzheimer's Special Care Unit, exclusive of residents' rooms and bathrooms. Common areas include any facility grounds accessible to residents of the Alzheimer's Special Care Unit.

Compliance Agreement – If needed, the written formal plan developed in consideration of shared responsibility, choice and assisted living values and negotiated between the resident or his or her representative and the assisted living facility to avoid or reduce the risk of adverse outcomes that may occur in an assisted living environment.

Continuous – Available at all times without cessation, break, or interruption.

Covered direct service staff member – This definition is pertinent to dementia training requirements listed in sections 504.5 and 504.6. A covered staff member means a staff member whose work involves extensive contact with residents or program participants. Covered direct service staff members include certified nursing assistants, nurse aides, personal care assistants, personal care aides, licensed practical nurses, licensed vocational nurses, registered nurses, activity directors, and staff members who provide direct patient care to residents.

Deficiency – A facility's failure to meet program participation requirements as defined in these and other applicable rules and laws.

Dementia – A loss or decrease in intellectual ability that is of sufficient severity to interfere with social or occupational functioning; it describes a set of symptoms such as memory loss, personality change, poor reasoning or judgment, and language difficulties.

Department – The Department of Human Services and its divisions and offices.

Direct Care Services – Services that directly help a resident with certain activities of daily living such as assistance with mobility and transfers; assistance provided to a resident to consume a meal, grooming, shaving, trimming or shaping fingernails and toenails, bathing, dressing, personal hygiene, bladder and bowel requirements, including incontinence, or assistance with medication, only to the extent permitted by the state Nurse Practice Act and interpretations thereto by the Arkansas State Board of Nursing.

Direct Care Service Plan – A written plan for direct care services that is developed to meet the needs and preferences of the resident or his or her representative through a negotiated process that becomes a part of the resident's occupancy admission agreement.

Direct Care Staff – Any licensed or certified staff acting on behalf of, employed by, or contracted by the facility, to provide services and who provides direct care services or assistance to residents, including activities of daily living and tasks related to medication administration or assistance.

Direct Care Staff (Alzheimer's Special Care Unit) – An individual who is an employee of the facility, or an individual who is an employee of a temporary or employment agency assigned to work in the facility, who has received or will receive, in accordance with these rules, specialized training regarding Alzheimer's or related dementia, and who is responsible for providing direct, hands-on care or cuing services to residents of the ASCU.

Direct Contact – The ability or opportunity of employees of the facility, or

individuals with whom the facility contracts, to physically interact with or be in the presence of residents.

Direct Threat – A significant risk to the health or safety of self or others that cannot be eliminated by reasonable accommodation. This term as used in these rules is designed to ensure conformity with the Americans with Disabilities Act (ADA) in determining whether a person with a disability poses a “direct (health or safety) threat”.

Directed Plan of Correction – A plan developed by the Department that describes the actions the facility will take to correct deficiencies and specifies the date by which those deficiencies will be corrected.

Discharge – When a resident leaves the facility, and it is not anticipated that the resident will return. A discharge occurs when a return to the facility by the resident requires that admission procedures set forth in these rules be followed.

Disclosure Statement (Alzheimer’s Special Care Unit) – A written statement prepared by the facility and provided to individuals or their representatives, and to individual’s families, prior to admission to the ASCU, disclosing the form of care, treatment, and related services especially applicable to, or suitable for residents of, the ASCU.

Disclosure Statement – A written statement prepared by the facility and provided to individuals or their responsible parties, and to individual’s families, upon visiting a facility for consideration of admission, and before admission, describing the form of care offered, treatment, staffing, the emergency preparedness plan, special services and related costs provided by the facility, and other information as required by Ark. Code Ann. § 20-10-111. The facility disclosure statement is reviewed annually. If it is not changed, then no further action is required, except that the facility shall maintain documentation that the statement was reviewed. If the statement is changed, then the resident or responsible party shall sign the revised statement.

Elopement – Circumstances where a resident, who has been identified as being cognitively impaired, has left a facility without staff knowledge. Facilities must comply with all reporting requirements of any special programs in which they participate.

Emergency Measures – Those measures necessary to respond to a serious situation that threatens the health and safety of residents.

Endangered Adult – Shall have the same meaning as prescribed by Ark. Code Ann. § 5-28-101 and as amended.

Exploitation – Shall have the same meaning as prescribed by Ark. Code Ann. § 5-

28-101.

First Aid Measures – Temporary interventions necessary to treat trauma or injury.

Health Care Service Plan – A written plan for health care services that is developed to meet the needs and preferences of the resident or his or her representative through a negotiated process that becomes a part of the resident's occupancy admission agreement.

Health Care Services – The provision of services in an assisted living facility that assists the resident in achieving and maintaining well-being (e.g., psychological, social, physical, and spiritual) and functional status. This may include nursing assessments and the monitoring and delegation of nursing tasks by registered nurses pursuant to the Nurse Practice Act and interpretations thereto by the Arkansas State Board of Nursing, care management, records management and coordinating basic health care and social services in such settings. Health care services may not be provided in a Level I Assisted Living Facility except as provided in Section 702 of these rules.

Home Health Services – Home health aide services, medical supplies suitable for use in the resident's assisted living facility apartment, and nursing services as defined in the state Nurse Practice Act and interpretations thereto by the Arkansas State Board of Nursing.

IDR – The informal dispute resolution process as described in these rules.

Imminent Danger to Health and Safety – Shall have the same meaning as prescribed by Ark. Code Ann. § 5-28-101.

Impaired Adult – Shall have the same meaning as prescribed by Ark. Code Ann. § 5-28-101.

Independence – The maintenance and promotion of resident capabilities to enhance the resident's preferences and choices within a barrier-free environment.

Individual Assessment Team (IAT) – A group of individuals possessing the knowledge and skills to identify the medical, behavioral, and social needs of residents of the Alzheimer's Special Care Unit (ASCU), and to develop services designed to meet those needs.

Individual Support Plan – A written plan developed by an Individual Assessment Team (IAT) that identifies services to a resident of the Alzheimer's Special Care Unit (ASCU).

Limited Nursing Services – Acts that may be performed by licensed personnel while carrying out their professional duties, but limited to those acts that the

department specifies by rule. Acts that may be specified by rule as allowable limited nursing services shall be for persons who meet the admission criteria established by the Department for facilities offering assisted living services, shall not be complex enough to require twenty-four (24) hour nursing supervision and may include such services as application and care of routine dressings, and care of casts, braces, and splints.

Assisted Living I License – A time-limited, non-transferable, permit required by Ark. Code Ann. § 20-10-224 and issued for a maximum period of twelve (12) months to a licensee who complies with the Department rules. This document must list the maximum number of beds for the facility.

Medication Administration – Service provided only by licensed medical staff, either directly or through contract, and in accordance with the Nurse Practices Act and interpretations of the Arkansas State Board of Nursing.

Medication Assistance and Monitoring – Services provided by the facility, either directly or through contract, in accordance with the Nurse Practices Act and interpretations thereto by the Arkansas State Board of Nursing, designed to ensure that residents receive necessary or prescribed medication, and to prevent wastage of medication.

Medication – Self Administer – Resident, without cueing, is capable of storing, managing, and self-administering his or her medications. Using a medication assessment instrument, facility staff has determined that the resident has the ability to store, manage, and self-administer his or her medications.

Mental Abuse – Verbal, written, or gestured communication, to a resident, or to a visitor or staff, about a resident within the resident's presence, or in a public forum, that a reasonable person finds to be a material endangerment to the mental health of a resident.

Neglect – Shall have the same meaning as prescribed by Ark. Code Ann. § 5-28-101 and 42 C.F.R. §488.301.

New Admission – An individual who is being admitted to the facility for the first time, or who is returning after a formal discharge.

Non-Compliance – Any violation of these rules, or of applicable law or rules.

Nurse Practice Act – As used in these rules, the term *Nurse Practice Act* refers to Ark. Code Ann. §17-87-101 *et seq.* and interpretations thereto by the Arkansas State Board of Nursing.

Operator – The individual or entity that conducts the business of the facility. The individual or individuals executing the licensure application form shall be deemed

an operator.

Office of Community Services (OCS) – The Office within the Division of Provider Services and Quality Assurance of the Department of Human Services that has the responsibility for the licensure, certification, and rules, of (HCBS) facilities, herein referred to as the Department or OCS.

Person – An individual, partnership, association, corporation, or other entity.

Personnel, Staff, or Employee – Any person who, under the direction, control, or supervision of facility administration, provides services as defined in these rules for compensation, or who provides services voluntarily, and may include the owner, operator, professional, management and persons, firms, or entities providing services pursuant to a contract or agreement.

Plan of Correction (P-o-C) – A plan developed by the facility and approved by the Department that describes the actions the facility will take to correct deficiencies, and which specifies the date by which those deficiencies will be corrected.

PRN – A medication or treatment prescribed by a medical professional to a person, allowing the medication or ointment to be given “as needed”.

Program Requirements – The requirements for participation and licensure under these and other applicable rules and laws as an assisted living facility.

Proprietor or Licensee – Any person, firm, corporation, governmental agency, or other legal entity, issued an assisted living facility license, and who is responsible for maintaining approved standards.

Protective Services – Shall have the same meaning as prescribed by Ark. Code Ann. § 5-28-101.

Provisional Licensure is a temporary grant of authority to the purchaser to operate an existing facility upon application for licensure to the Department.

Provisional Placement – Placement in an assisted living facility made for the purposes of assessment to determine appropriateness of admission or emergency, such as placement by law enforcement or Adult Protective Services. A provisional placement shall be permitted for no longer than thirty (30) days, at which time the resident must either be discharged or admitted to the facility in conformity with these rules. A provisional placement shall not be an admission pursuant to these rules, and any individual in an assisted living facility pursuant to a provisional placement shall not be deemed a resident of the facility.

Quarterly – A measure of time in which a calendar year is divided into four (4) segments of three (3) months per segment. When, under these or other applicable

laws or regulation, an action must be taken quarterly, the required action shall be completed once in each quarter on any day within a calendar quarter. Provided, however, that no more than ninety (90) days may elapse between the required events.

Representative or Responsible Party – An individual, who, at the request of the applicant or resident, or by appointment by a court of competent jurisdiction, agrees to act on behalf of a resident or applicant for the purposes of making decisions regarding the needs and welfare of the resident or applicant. These rules, and this definition, does not grant or permit, and should not be construed as granting or permitting, any individual authority or permission to act for or on behalf of a resident or applicant in excess of any authority or permission granted by law. A competent resident may select a representative or may choose not to select a representative. In no event may an individual act for, or on behalf of, a resident or applicant when the resident or applicant has a legal guardian, attorney-in-fact, or other legal representative. For purposes of these rules only, representative will also refer to the terms, *responsible party*, *guardian*, *power of attorney* or similar phrase.

Separate Premises – Buildings housing Assisted Living Facility operations that are located on non-contiguous land.

Significant Change – Any improvement or decline in a resident's medical, physiological, psychological, or social condition, in which:

- a. The decline cannot be reasonably expected to resolve itself; or,
- b. In which the decline may cause a worsening of another or pre-existing medical, physiological, psychological, or social condition.

Substandard Quality of Care – One (1) or more deficiencies related to participation requirements, as set forth in these or other applicable rules or laws, that constitute either immediate jeopardy to resident health or safety; a pattern of, or widespread actual harm, that is not immediate jeopardy; or a widespread potential for more than minimal harm, but less than immediate jeopardy, with no actual harm.

Survey – The process of inspection, interviews, or record reviews, conducted by the Department.

Standard Survey - A comprehensive survey conducted by the Department on an average of every eighteen (18) months for each facility.

Therapeutic Diet – A diet ordered by a physician or an advance practice nurse to manage problematic health conditions.

Transfer – The temporary or permanent relocation of a resident from one (1) living

unit within the facility to another living unit within the facility, or the temporary relocation of a resident to a location outside the facility.

Twenty-four Hour Staff – Staff present in the facility at all times who are awake and available to respond to resident needs.

Universal Precautions – Set of guidelines, or precautions, designed to prevent transmission of infectious agents, including blood-borne pathogens, when providing health care, and which assume that all human blood and body fluids are treated as if known to be infectious.

Universal Worker – An employee trained to perform a variety of functional duties to meet the needs of residents, including direct care, and who is counted in the staff to resident staffing ratios.

Twenty-Four (24) Hour Nursing – Services that are ordered by a physician or advance practice nurse for a resident whose condition requires the supervision of a physician or advance practice nurse and continued monitoring of vital signs and physical status and whose condition is medically complex enough to require onsite nursing supervision on a twenty-four (24) hour per day basis.

Visually and Functionally Distinct Area – A space that can be distinguished from other areas within the apartment by sight. A visually and functionally distinct area need not be a separate room. To create a visually distinct area, one (1) or more of the following methods must be employed: change in ceiling height, separation by ceiling soffit(s) or wall returns, change in flooring color, partial height partitions or counters, use of alcoves, use of permanent screening devices such as columns or fixed screens. In the case of an “L” shaped studio apartment or unit, kitchenettes and living areas may be combined and bedroom areas may be in a leg of an “L” shaped plan and qualify without additional separation methods.

504.4 All staff including contracted personnel who provide services to residents, excluding licensed home health agency staff, shall receive orientation and training on the following topics within the time frames specified herein:

a. Within seven (7) calendar days of hire:

1. Building safety and emergency measures, including safe operation of fire extinguishers and evacuation of residents from the building;
2. Appropriate response to emergencies;
3. Abuse, neglect, and financial exploitation and reporting requirements;
4. Incident reporting;
5. Sanitation and food safety;
6. Resident health and related problems;
7. General overview of the job's specific requirements;
8. Philosophy and principles of independent living in an assisted living residence.
9. Residents' Bill of Rights;

b. Within thirty (30) calendar days of hire:

1. Medication assistance or monitoring;
2. Communicable diseases, including AIDS or HIV and Hepatitis B; infection control in the residence and the principles of universal precautions based on OSHA guidelines;

c. Within one-hundred eighty (180) calendar days of hire:

1. Communication skills;
2. Review of the aging process and disability sensitivity training.

504.4.1 All staff and contracted providers having direct contact with residents and all food service personnel shall receive a minimum of six (6) hours per year of ongoing education and training to include in-service and on-the job training designed to reinforce the training set forth in Section 504.4(a)(b)(c).

504.5 The facility shall provide dementia training for all covered staff members within ninety (90) days of hire. Facilities shall:

- a. Establish procedures for ongoing staff support regarding the treatment and care of persons with dementia, which shall include on-site mentoring programs and other support mechanisms.
- b. Identify and designate standardized trainings, including online trainings that meet the requirements of dementia training.
- c. Maintain a certificate in the employee's personnel file upon completion of training. It shall be portable between settings within the state.
- d. Ensure if a covered staff member has a lapse of twenty-four (24) consecutive months or more, the initial dementia training is repeated.
- e. Ensure staff members are informed that they are responsible for maintaining their documentation.
- f. Ensure a covered staff member is trained adequately and appropriately to best address the needs of the person served.
- g. Ensure that each direct service staff member and a covered administrative staff member complete four (4) hours of initial training.

504.6 Dementia training shall be culturally competent for covered staff members and persons with Alzheimer's disease and dementia.

- a. Dementia training relative to Section 504.5 shall include principles of person-centered dementia care including:
 1. Thorough knowledge of persons with Alzheimer's disease and dementia and their abilities and needs;
 2. Methods for ensuring optimal functioning and quality of life including how to use problem-solving approaches to care, and techniques that ensure and preserve a resident's respect, values, choice, and dignity.
- b. The curriculum used for the initial training shall cover the following topics:
 1. Alzheimer's disease and other dementias;
 2. Person-centered care;
 3. Assessment and care planning;
 4. Activities of daily living; and
 5. Dementia-related behaviors and communication.

c. The curriculum for a covered administrative staff member for the initial training shall also cover the following additional topics:

1. Medical management information, education, and support;
2. Staffing;
3. Supportive and therapeutic environments; and
4. Transitions and coordination of services.

d. Dementia training for other covered staff members shall include, at a minimum:

1. An overview of Alzheimer's disease and other dementias;
2. Principles of person-centered care; and
3. Dementia-related communication issues

e. The individual providing the training shall possess:

1. No less than two (2) years of work experience related to Alzheimer's disease or other dementias or in health care, gerontology, or another related field;
2. A minimum of two (2) years of general nursing experience including at least one (1) year of nursing services in a nursing facility setting or an assisted living facility within the last five (5) years; or
3. A minimum of two (2) years of experience as an administrator in an assisted living facility or a facility that provides direct care to persons with dementia; and
4. Does not have any disciplinary action regarding their license by the licensing entity or authority.

General nursing experience may include without limitation employment in a nursing assistant education program or employment in or supervision of nursing students in a nursing facility or unit, geriatrics department excluding a geriatric psychiatry department, long-term acute care hospital, home healthcare, hospice care, or other long-term care or home and community-based settings.

f. Two (2) hours of continuing education will be provided on an annual basis and will include information on best practices in the treatment and care of persons with dementia.

504.7 Facility staff, administrators and owners are prohibited from being appointed as, or acting as, guardian of the person or the estate, or both, for residents of the facility.