ARKANSAS REGISTER

Proposed Rule Cover Sheet

Secretary of State
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Name of Department Department of Human Services

Agency or Division Name Division of Provider Services and Quality Assurance

Other Subdivision or Department, If Applicable N/A

Previous Agency Name, If Applicable N/A

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Name of Rule Minimum Dementia Training Requirements pursuant to Act 335 of 2023

Newspaper Name Arkansas Democrat Gazette

Date of Publishing September 22, 2023

Final Date for Public Comment October 21, 2023

Location and Time of Public Meeting N/A

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY.

DEPARTMENT Department of Human Services
BOARD/COMMISSION Division of Provider Services and Quality Assurance
PERSON COMPLETING THIS STATEMENT Martina Smith, J.D.
TELEPHONE NO. (501) 396-6165 **EMAIL** Martina.Smith@dhs.arkansas.gov

To comply with Ark. Code Ann. § 25-15-204(e), please complete the Financial Impact Statement and email it with the questionnaire, summary, markup and clean copy of the rule, and other documents. Please attach additional pages, if necessary.

TITLE OF THIS RULE Minimum Dementia Training Requirements pursuant to Act 335 of 2023

1. Does this proposed, amended, or repealed rule have a financial impact?
   Yes ☐ No ☑

2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule?
   Yes ☑ No ☐

3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes ☑ No ☐

   If no, please explain:

   (a) how the additional benefits of the more costly rule justify its additional cost;

   (b) the reason for adoption of the more costly rule;

   (c) whether the reason for adoption of the more costly rule is based on the interests of public health, safety, or welfare, and if so, how; and

   (d) whether the reason for adoption of the more costly rule is within the scope of the agency's statutory authority, and if so, how.

4. If the purpose of this rule is to implement a *federal* rule or regulation, please state the following:

   (a) What is the cost to implement the federal rule or regulation?

Current Fiscal Year		**Next Fiscal Year**	
General Revenue	$0.00	General Revenue	$0.00
Federal Funds	$0.00	Federal Funds	$0.00
Cash Funds	$0.00	Cash Funds	$0.00
Special Revenue	$0.00	Special Revenue	$0.00
Other (Identify)	$0.00	Other (Identify)	$0.00
Total	$ 0.00	Total	$ 0.00

(b) What is the additional cost of the state rule?

Current Fiscal Year		**Next Fiscal Year**	
General Revenue	$0.00	General Revenue	$0.00
Federal Funds	$0.00	Federal Funds	$0.00
Cash Funds	$0.00	Cash Funds	$0.00
Special Revenue	$0.00	Special Revenue	$0.00
Other (Identify)	$0.00	Other (Identify)	$0.00
Total	$ 0.00	Total	$ 0.00

5. What is the total estimated cost by fiscal year to any private individual, private entity, or private business subject to the proposed, amended, or repealed rule? Please identify those subject to the rule, and explain how they are affected.

Current Fiscal Year	**Next Fiscal Year**
$ 0.00	$ 0.00

6. What is the total estimated cost by fiscal year to a state, county, or municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

Current Fiscal Year	**Next Fiscal Year**
$ 0.00	$ 0.00

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars ($100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes ☐ No ☑

If yes, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

(1) a statement of the rule's basis and purpose;

(2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;

(3) a description of the factual evidence that:
(a) justifies the agency's need for the proposed rule; and
(b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;

(4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;

(5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;

(6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and

(7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
(a) the rule is achieving the statutory objectives;
(b) the benefits of the rule continue to justify its costs; and
(c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.

Statement of Necessity and Rule Summary
Minimum Dementia Training Requirements pursuant to Act 335 of 2023

Statement of Necessity:

The 94th General Assembly enacted Act 335. Act 335 amends Arkansas Code §20-10-2401 to require minimum dementia training for staff members who are employed by an assisted living facility to address gaps in current dementia training requirements.

Summary of Changes:

To comply with the Act, the Division of Provider Services and Quality Assurance amends the Rules for Assisted Living Facilities I and Rules for Assisted Living Facilities II manuals to create and define the requirements. The updates address training principles, required curriculum, initial training, and annual training.

Repeals pursuant to the Governor's Executive Order 23-02:

1. DDS Policy 1044 – Individual Records, and
2. DDS Policy 2003 – Gifts and Bequests.

NOTICE OF RULE MAKING

The Department of Human Services (DHS) announces for a public comment period of thirty (30) calendar days a notice of rulemaking for the following proposed rule under one or more of the following chapters, subchapters, or sections of the Arkansas Code: §§20-10-203, 20-10-705, 20-76-201, 20-77-107, and 25-10-129.

The Director of the Division of Provider Services and Quality Assurance amends Rules for Assisted Living Facilities I and Rules for Assisted Living Facilities II manuals to comply with Act 335 of the 94th General Assembly, with a proposed effective date of January 1, 2024. Act 335 amends Arkansas Code §20-10-2401 to require minimum dementia training requirements for staff members who are employed by an assisted living facility to address gaps in current dementia training requirements. The rule addresses training principles, required curriculum, initial training, and annual training. The proposed rule has no estimated financial impact.

Pursuant to the Governor's Executive Order 23-02, DHS repeals the following two rules as part of this promulgation: (1) DDS Policy 1044 – Individual Records, and (2) DDS Policy 2003 - Gifts and Bequests.

The proposed rule is available for review at the Department of Human Services (DHS) Office of Rules Promulgation, 2nd floor Donaghey Plaza South Building, 7th and Main Streets, P. O. Box 1437, Slot S295, Little Rock, Arkansas 72203-1437. You may also access and download the proposed rule at ar.gov/dhs-proposed-rules.

Public comments must be submitted in writing at the above address or at the following email address: ORP@dhs.arkansas.gov. All public comments must be received by DHS no later than October 21,2023. Please note that public comments submitted in response to this notice are considered public documents. A public comment, including the commenter's name and any personal information contained within the public comment, will be made publicly available and may be seen by various people.

If you need this material in a different format, such as large print, contact the Office of Rules Promulgation at (501) 320-6428.

The Arkansas Department of Human Services is in compliance with Titles VI and VII of the Civil Rights Act and is operated, managed and delivers services without regard to religion, disability, political affiliation, veteran status, age, race, color or national origin. **4502174733**

Martina Smith, Director
Division of Provider Services and Quality Assurance

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 ~~Office of Long Term Care~~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 ~~Office of Long Term Care~~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 ~~Long Term Care~~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~~;~~, ~~and~~ that advertises, markets, or otherwise promotes the facility as providing specialized Alzheimer's or related dementia care services.

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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. ~~F~~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 ~~responsible party~~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.

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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 ~~responsible party~~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".

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Directed Plan of Correction – A plan developed by the ~~Office of Long Term Care~~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 ~~responsible partie~~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 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 ~~responsible party~~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.

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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 promotions 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.

~~Long Term Care Facility~~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 ~~Office of Long Term Care~~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.

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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.

~~OLTC – The Office of Long Term Care.~~

Office of ~~Long Term Care~~ Community Services (OCS)– The Office within the Division ~~of Medical Servicesd~~ of Provider Services and Quality Assurance of the Department of Human Services that has the responsibility for the licensure, certification, and rules, of ~~long term~~ (HCBS) ~~care~~ facilities, herein referred to as the ~~Office~~Department or ~~OLTC~~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 ~~OLTC~~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

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these and other applicable rules and laws as an assisted living facility.

Proprietor or ~~/~~Licensee – Any person, firm, corporation, governmental ~~agency~~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 ~~long-term care~~ facility upon application for licensure to the ~~Office of Long Term Care~~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~~s~~ 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.

~~Responsible Party~~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 ~~responsible party~~ representative or may choose not to select a ~~responsible party~~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, ~~responsible party~~representative will also refer to the terms, ~~*legal representative*~~*responsible party*, ~~*legal*~~ *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-

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existing medical, physiological, psychological, or social condition.

Substandard Quality of Care – One 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 ~~Office of Long Term Care~~Department.

Standard Survey - A comprehensive survey conducted by the ~~Office of Long Term Care~~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.

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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;

~~3. Dementia and cognitive impairment;~~

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

1. Communication skills;

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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;

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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.

~~504.6~~**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.

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300 DEFINITIONS

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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

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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

Proposed

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 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.

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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 promotions 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 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.

Proposed

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.

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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, 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 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.

Proposed

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.

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Proposed

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.

Proposed

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.

Proposed

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.

Proposed

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 ~~Office of Long Term Care~~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 ~~Office of Long Term Care~~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 ~~Long Term Care~~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;~~,~~ ~~and~~ that advertises, markets, or otherwise promotes the facility as providing specialized Alzheimer's or related dementia care services.

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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.~~:~~ ~~F~~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 ~~responsible party~~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,

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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 ~~responsible party~~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

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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 ~~Office of Long Term Care~~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 ~~responsible partie~~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 necessary to respond to a serious situation that threatens the health and safety of residents.

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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.

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

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~~Long Term Care Facility~~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 ~~Office of Long Term Care~~the Department rules. This document must list the maximum number of beds for the facility.

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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.

~~OLTC – The Office of Long Term Care.~~

Office of ~~Long Term Care~~ Community Services (OCS)– The Office within the Division ~~of Medical Servicesd~~ of Provider Services and Quality Assurance of the Department of Human Services that has the responsibility for the licensure, certification, and rules, of ~~long term~~ (HCBS)~~care~~ facilities, herein referred to as the ~~Office~~Department or ~~OLTC~~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 ~~OLTC~~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.

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

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

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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~~s~~ 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 ~~Responsible PartyRepresentative~~ – 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 ~~responsible party~~ representative or may choose not to select a ~~responsible party~~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, ~~responsible party~~representative will also refer to the terms, ~~*legal representative*~~*responsible party*, ~~*legal*~~ *guardian, power of attorney* or similar phrase.

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Survey – The process of inspection, interviews, or record reviews, conducted by the ~~Office of Long Term Care~~Department.

Standard Survey - A comprehensive survey conducted by the ~~Office of Long Term Care~~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.

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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;

~~3. Dementia and cognitive impairment;~~

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

1. Communication skills;

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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;

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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.

~~504.6~~**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.

Mark-Up

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

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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.

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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.

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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 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.

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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 promotions 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 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.

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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.

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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, 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.

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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.

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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.

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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.

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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.

Proposed

State of Arkansas *As Engrossed: H3/6/23*
94th General Assembly **A Bill**
Regular Session, 2023 HOUSE BILL 1518

By: Representative J. Mayberry
By: Senator J. Boyd

For An Act To Be Entitled

AN ACT TO SET MINIMUM DEMENTIA TRAINING REQUIREMENTS FOR STAFF MEMBERS WHO ARE EMPLOYED BY AN ASSISTED LIVING FACILITY; TO ADDRESS GAPS IN CURRENT DEMENTIA TRAINING REQUIREMENTS AND IMPROVE THE QUALITY OF TRAINING; AND FOR OTHER PURPOSES.

Subtitle

TO SET MINIMUM DEMENTIA TRAINING REQUIREMENTS FOR STAFF MEMBERS WHO ARE EMPLOYED BY AN ASSISTED LIVING FACILITY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 20, Chapter 10, is amended to add an additional subchapter to read as follows:

Subchapter 24 — Dementia Training for Covered Staff Members

20-10-2401. Legislative intent.

It is the intent of the General Assembly to:

(1) Set minimum training requirements for staff members who are employed by an assisted living facility that includes persons with Alzheimer's disease or other dementias in the populations served; and

(2) Address gaps in current dementia training requirements for covered staff members and improve the quality of training.

20-10-2402. Definitions

As used in this subchapter:

(1) “Covered administrative staff member” means senior personnel at a *facility*, including administrators as well as managerial staff members, who directly supervise covered direct service staff members;

(2)(A) “Covered direct service staff member” means a staff member whose work involves extensive contact with residents or program participants.

(B) "Covered direct service staff member" includes:

(i) A certified nursing assistant;

(ii) A nurse aide;

(iii) A personal care assistant;

(iv) A personal care aide;

(v) A licensed practical nurse;

(vi) A licensed vocational nurse;

(vii) A registered nurse;

(viii) An *activity* director; and

(ix) A staff member who provides direct patient care to a resident;

(3) "Covered staff member" means a covered direct service staff member, covered administrative staff member, and other covered staff member;

(4) "Facility" means a residential facility that provides supportive services and that have residents with Alzheimer’s disease or other dementias, including without limitation an assisted living facility;

(5) “Other covered staff member” means a staff member who has incidental contact on a recurring basis with residents or program participants, front desk staff, administrative staff, and other individuals who have incidental contact; and

(6) “Staff member” means a full-time or part-time employee of a *facility.*

20-10-2403. Dementia training for covered staff members.

(a) A facility shall provide initial training to:

(1) All covered staff members:

(A) On or after the effective date of this section; or

(B) Within ninety (90) days of the start of his or her employment; and

(2) All covered staff members who were employed before the effective date of this section and who have not received equivalent training within the past twenty-four (24) months.

(b) Initial training requirements shall be completed within ninety (90) days of that date.

(c) A facility shall:

(1) 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;

(2) Identify and designate standardized trainings, including online trainings, that meet the requirements of this subchapter; and

(3) Issue a certificate to covered staff members upon completion of initial training, which shall be portable between settings within the state.

(d) If a covered staff member does not have a lapse of dementia-related direct service or administration employment for twenty-four (24) consecutive months or more, the covered staff member shall not be required to repeat the initial dementia training.

(e) A covered staff member is responsible for maintaining documentation regarding completed dementia trainings and evaluations.

20-10-2404. Curriculum of dementia training.

(a) The dementia training curriculum shall include principles of person-centered dementia care including:

(1) Thorough knowledge of the person with Alzheimer's disease and dementia and the person's abilities and needs;

(2) Advancement of optimal functioning and quality of life;

(3) Use of problem-solving approaches to care; and

(4) Techniques that ensure and preserve person's respect, values, choice, and dignity.

(b)(1) A covered staff member shall be trained adequately and appropriately to best address the needs of the person served.

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

(c)(1) A covered direct service staff member and a covered administrative staff member shall complete four (4) hours of initial

training.

(2) The curriculum used for the initial training shall cover the following topics:

(A) Alzheimer's disease and other dementias;

(B) Person-centered care;

(C) Assessment and care planning;

(D) Activities of daily living; and

(E) Dementia-related behaviors and communication.

(d) 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.

(e) 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.

20-10-2405. Requirements for trainers.

(a) A person who conducts in-person dementia training under this subchapter shall meet the following minimum criteria:

(1) Possess:

(A) 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;

(B) 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

(C) 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

(2) Does not have any disciplinary action regarding his or her license by the licensing entity or authority.

(b) As used in this section, 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.

20-10-2406. Training costs.

A covered staff member shall not be required to bear any of the cost of trainings or cost to attend trainings and shall receive their normal compensation when attending required trainings.

20-10-2407. State oversight.

(a) The Department of Human Services shall exercise oversight over the compliance of a facility with the requirements of this subchapter to:

(1) Ensure that the facility provides continuing education opportunities;

(2) Involve observation and assessment of the proficiencies of direct care staff; and

(3) Ensure compliance with any other requirements.

(b) The department may use all of its enforcement tools to ensure that a facility complies with this subchapter.

20-10-2408. Notice.

No later than ninety (90) days before the effective date of this statute, the Department of Human Services shall give notice to a *facility* that may be covered under this subchapter.

20-10-2409. Rules.

The Department of Human Services shall adopt rules:

(1) For initial and continuing education on dementia for covered staff members; and

(2)(A) To establish two (2) hours of continuing education on dementia for all covered staff annually.

(B) The continuing education under subdivision (2)(A) of this section shall include new information on best practices in the treatment

and care of persons with dementia.

20-10-2410. Construction.

(a) This subchapter does not supersede any state law or rule that contains more rigorous training requirements for some covered staff members.

(b) If any state law or rule overlaps with this subchapter, the Department of Human Services shall avoid duplication of requirements while ensuring that the minimum requirements under this subchapter are met.

SECTION 2. DO NOT CODIFY. Rules.

(a) When adopting the initial rules required under this act, the Department of Human Services shall file the final rules with the Secretary of State for adoption under § 25-15-204(f):

(1) On or before January 1, 2024; or

(2) If approval under § 10-3-309 has not occurred by January 1, 2024, as soon as practicable after approval under § 10-3-309.

(b) The department shall file the proposed rules with the Legislative Council under § 10-3-309(c) sufficiently in advance of January 1, 2024, so that the Legislative Council may consider the rules for approval before January 1, 2024.

/s/J. Mayberry

APPROVED: 3/21/23

RULES SUBMITTED FOR REPEAL

Rule #1: DDS Policy 1044 – Individual Records

Rule #2: DDS Policy 2003 – Gifts and Bequests

ARKANSAS DEPARTMENT OF HUMAN SERVICES
DIVISION OF DEVELOPMENTAL DISABILITIES SERVICES
DDS DIRECTOR'S OFFICE POLICY MANUAL

Policy Type	Subject of Policy	Policy No.
Administrative	Individual Records	1044

1. Purpose. This policy has been prepared to establish guidelines for DDS individual record keeping.

2. Scope. This policy applies to all individuals' records maintained by Developmental Disabilities Services.

3. Definitions. The following definitions apply to DDS individual records.

   A. Master Record – The permanent record developed for each individual who receives services from DDS. This record originates at DDS Central Office and includes field and any prior information.

      1) Each master record shall contain all available initial and current pertinent data in paper form. It must contain the following original documents indefinitely.

REPEAL

         1. Application for services/assistance
         2. Request for assistance/authorization for services
         3. Birth Certificate
         4. Social Security Card or copy
         5. Legal documents
         6. Original assessments

      2) Each master record shall contain all documents which comprise the official individual record for each person at an HDC, including the residential Central Record, the Living Unit Record and the Medical Record.

Replacement Notation: This Policy replaces DDS Commissioner's Office Policy #1044, November 2, 1981, and March 15, 1993.

Effective Date: December 1, 1993

References: DDS Director's Office Policies 1013, Confidentiality, 3003-I, Research Involving Clients, and 3007-I, Individualized Program Plans. MR-DDS Institutional Services Policies RS-PO-26, RS-PO-27, RS-PO-28, all dated July 2, 1975, which are hereby superseded; DDS Director's Office Policy #1076, dated August, 1992; DDS RecordsManual dated May, 1992.

Administrative Rules & Regulations Sub Committee of the Arkansas Legislative Council: November 4, 1993

Policy Type	Subject of Policy	Policy No.
Administrative	Individual Records	1044

B. Field File – Consists of the following photocopies of documents and is utilized by the DDS Field Counselor as the "working file."

1. Application for services/assistance
2. Request for assistance/authorization for services
3. Birth Certificate
4. Social Security Card or copy
5. Legal documents
6. Original assessments
7. Early Intervention data, when appropriate

C. Correspondence – Any written communication that is directly related to the individual and DDS Services.

- Letters
- Memos
- LEA Letter of Acknowledgment (Local Educational Agency)

REPEAL

D. Documents – Official and/or legal verification/certification.

- Application for Services
- Financial Resource Questionnaire
- Release(s) of Information
- Birth Certificate (copy)
- Social Security Card (copy)
- Medicaid Card (copy)
- Petition for Admission
- Guardianship Papers (copy)
- Subpoena(s)
- Authorization to Secure Services

Policy Type	Subject of Policy	Policy No.
Administrative	Individual Records	1044

E. Field Staff Activity – Documentation by field staff of all official contact with person and family eligible for DDS Services and can include such items as follows:

- Request for Assistance
- Case Notes
- Request for Respite Care
- Transfer Summaries
- Closing Summaries
- Status Reports
- Referral for Services Form
- Individual Services Implementation Plan/ISIP Questionnaire

F. Programming – Individual prescription for services for eligible individuals.

REPEAL

- Client Outreach Program
- Individual Education Plan
- Individual Program Plan/Annual Review
- Individual Habilitation Program
- Individual Family Service Implementation Plan
- Special Staffing Reports
- ACS Waiver Plan of Care
- Discharge Summary

G. Evaluations – Completion of various assessments which result in records for services and/or programming.

- Diagnostic & Evaluation
- Psychological Evaluation
- Adaptive Behavior/Developmental Scales
- Speech/Language Evaluations
- Physical Therapy Evaluations
- Occupational Therapy Evaluation
- Audiological Evaluations/Screening
- Educational Evaluations
- PASARR

Policy Type	Subject of Policy	Policy No.
Administrative	Individual Records	1044

H. Medical – Any evaluations/assessments related to the physical health of the individual eligible for services.

- Nutritional Assessment
- Physical Exams
- Medical Summary
- Dental Records (not X-rays)
- Immunizations
- Personal/Medical Data Sheet (vital statistics)
- TB Skin Test
- Medical Case Management Plan
- Medical Discharge Summary
- Medical Staffing Summary
- Vision Examination

REPEAL

4. Guidelines for the Use of the Record. Access to and authorization of the master record of individuals shall be governed by the following guidelines:

A. Information will be released only to properly authorized persons.

B. Master records that are taken from the Central Records Room must be returned by 4:20 p.m. each day unless authorized by Administrative Director/designee.

C. DDS staff members may access a Master Record only for purposes of completion of an official duty.

D. Master records are to be checked out through and returned to Records Room staff.

Policy Type	Subject of Policy	Policy No.
Administrative	Individual Records	1044

5. Transporting Records – When necessary to transport a record to or from a site within DDS, the master record will be:

   1) Hand-delivered by an employee of DDS.

   2) Mailed via certified mail.

      a) Returned certified mail receipt will serve as documentation of recipient of the Master file.

      b) Certified Mail receipts will be filed in the Records Room.

6. Release of Information – All information contained in an Individual's Record is releasable; however, no information from the record shall be released except as required/allowed by regulation or when proper authorization is received from the individual or parent/guardian.

   Inquiries or requests for information from the Master Record are made to the Central Records Room or HDC.

REPEAL

7. DDS Records Manual – The agency shall develop and periodically revise a manual of procedures, outlines, and forms for the keeping/disposition of DDS records. A copy of the DDS Procedures Manual will be referenced to this policy and filed in the DDS Director's Office.

ARKANSAS DEPARTMENT OF HUMAN SERVICES
DIVISION OF DEVELOPMENTAL DISABILITIES SERVICES
DIRECTOR'S OFFICE POLICY MANUAL

Policy Type	Subject of Policy	Policy No.
Fiscal	Gifts and Bequests	2003

1. Purpose. This policy has been prepared to specify DDS Divisional guidelines for implementing Board Policy #2003 on Gifts and Bequests.

2. Scope. All employees of DDS must abide by this policy in the receipt and expenditure of Gifts and Bequests held in trust by the Board.

3. Procedural Additions. Procedures for maintaining and accounting for Gifts and Bequests funds shall be established by the DDS Director.

REPEAL

Replacement Notation: This policy replaces DDS Commissioner's Office Policy #2003, effective February 12, 1982, November 1, 1983, and May 1, 1993.

Effective Date: December 1, 1993 Sheet 1 of 3

References: DDS Board Policy #2003; DDS Institutional Services Policy RS-PO-3, effective June 18, 1979, which is hereby superseded.

Administrative Rules & Regulations Sub Committee of the Arkansas Legislative Council: November 4, 1993.

ARKANSAS DEPARTMENT OF HUMAN SERVICES
DIVISION OF DEVELOPMENTAL DISABILITIES SERVICES
DIRECTOR'S OFFICE POLICY MANUAL

Policy Type	Subject of Policy	Policy No.
Fiscal	Gifts and Bequests Procedural Guidelines	2003

Procedural Guidelines for Gifts and Bequests Funds - DDS Board Policy #2003:

1. The Gifts and Bequests funds on hand as of June 30, 1983, less interest earned during FY/83, shall be deposited in, or remain in, interest bearing accounts or other securities and shall constitute the principal balance, hereafter called Principal. It shall consist of seven components--one component for each HDC and one unspecified component, plus unallocated interest.

   A. Donations received after June 30, 1983, without specified purpose, but left to a specified HDC, shall retain its attachment to that HDC. The donation shall become part of the principal amount for that facility.

   B. Donations not made on behalf of a specified HDC, but simply left to DDS, will be credited to the unspecified component of the principal. Any area of DDS may request Board approval to use this money.

   No funds shall be expended from the unspecified principal without the approval of the DDS Board.

REPEAL

2. Division of Finance, Funds Management Section, shall maintain a control account for the entire amount of funds in Gifts and Bequests. In addition, a subsidiary ledger account will be maintained for the components thereof.

3. Effective July 1, 1986, and on each July 1 thereafter, interest earned during the previous fiscal year shall be divided among the DDS Human Development Centers, with allocation being based upon fiscal year average enrollment obtained from the midnight census count. The HDC with the lowest average enrollment shall be weighted to equal that HDC with the next lowest average enrollment. Prior to computation, $1,000.00 shall be set aside from the total interest for the Director's Office.

4. Donations with a stated purpose will be deposited to the general Gifts and Bequests Fund Account. A subsidiary ledger will be prepared by Funds Management Section, showing the donation amount, the purpose and the HDC designated in the purpose. Should such donation be receipted by Funds Management Section, a copy of the receipt will be provided to the HDC.

Replacement Notation: This Procedural Guideline replaces DDS Deputy Director's Office Procedure #2003 dated August 17, 1987.

References: DDS Board Policy 2003, dated March 26, 1986

Administrative Rules & Regulations Sub Committee of the Arkansas Legislative Council: November 4, 1993.

Policy Type	Subject of Policy	Policy No.
Fiscal	Gifts and Bequests Procedural Guidelines	2003

Procedural Guidelines for Gifts and Bequests Funds - DDS Board Policy #2003:

5. All interest income, whether generated by principal or allocation, will become a part of the total interest income to be distributed as outline in item 3.

6. Unexpended allocations on June 30 will be carried forward on their respective subsidiary accounts.

7. If the amount required for a specific purpose, as set forth in the donation, is less than the amount contributed, the balance will remain in the HDC subsidiary account to be used at the discretion of the Activity Manager within existing guidelines.

8. When a donation is designated, requests for expenditure against the donation must be accompanied by a copy of the donor receipt. When the purchase can be handled by the originating Activity, support documents for Funds Management Section, must include a copy of the donor receipt.

9. When money is to be expended from the unspecified fund principal, Director and Board approval is required, regardless of amount. Request for expenditure against the undesignated principal must be supported by documentation showing Board approval prior to purchase. When obligation is made from undesignated principal, a copy of the Board-approval-document must be provided to Funds Management Section, as a part of the support documents.

REPEAL

10. When money to be expended is clearly identified as having been given for the requested purchase or is from allocated interest, no agency approvals beyond Activity level are required for an amount less than $5,000.00. If the amount is $5,000.00 or more, then approval of the Director is required.

11. Procurement of items in amounts less than $5,000.00 (order total) may be made by the HDC Superintendent. Division of Management Services, Purchasing Section, will handle procurement for Central Administration and for all purchases requiring Director and/or Board approval.

12. The procurement party assumes responsibility for following the state purchasing law and accounting procedures manual and, policy and procedures relating to Gifts and Bequests when making obligations against that fund. In addition, he/she is responsible for ensuring that there are adequate sums in the subsidiary account to cover the purchase. Division of Management Services, Purchasing Section, and Division of Finance, Funds Management Section, will be available to provide advice at any level upon request.

13. A request and explanation for cash will be routed to Central Office for approval. Supporting documentation for the expenditure will be maintained at the HDC.