

Welcome!

We will begin the 2026 Legislative Changes for Assisted Living Facilities Webinar shortly.

This webinar will be recorded and published on the VDSS website.

All cameras and microphones are disabled to improve quality.

Questions can be asked in the Q&A feature, which will be monitored throughout the training.

2026 Legislative Changes

22VAC40-73, Standards for Licensed Assisted Living Facilities

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22VAC40-73, Standards for Licensed Assisted Living Facilities

2026 Legislative changes for ALF

2026 General Assembly

- » Two bills were passed this year requiring promulgation of regulations for ALF.
- » SB 409: Electronic Monitoring in Resident Rooms
- » HB 1522: Automated External Defibrillator (AED) Requirement

HB 1522: AED Requirements

» Section 10: Definitions

- Added the definition of an automated external defibrillator (AED).

» Section 210: Direct care staff training

- » First aid, CPR, or AED training is in addition to the required annual training for direct care staff.

HB 1522: AED Requirements

- » **Section 260: First Aid, CPR and AED requirements.**
 - An AED must be accessible to staff and maintained.
 - Added requirements for at least one staff trained on the use of an AED in the building.
 - Added to the current requirement that the listing of staff with current first aid or CPR training will now include AED training.

- » **Section 990: Plan for resident emergencies and practice exercise.**
 - Clarified that the ALF's plan for resident emergencies shall include procedures for the use of an AED during a medical emergency.

SB 409: Electronic Monitoring in Resident Rooms

» Section 10: Definitions

- » The definition for electronic monitoring was added to 22VAC40-73-10.
- » "Electronic monitoring" means the use of a surveillance device with a fixed position video camera or audio recording device or a combination thereof which is installed in a resident's room and broadcasts or records activities or sounds occurring within the confines of the room. "Electronic monitoring" does not include use of a device that enables audio communication into the resident's room from another source.

» Section 390: Resident agreement with the facility

- » Resident agreements are required to be updated to include ALF policies and procedures for electronic monitoring in resident rooms and should be signed by the resident or resident's legal representative (if any).
- » ALF should update all resident agreements with this information per 22VAC40-73-390 C.

SB 409: Electronic Monitoring in Resident Rooms

- » New Section added: 755. Electronic Monitoring in Resident Rooms
- » Regulations include information regarding:
 - Resident privacy
 - Informed consent requirements
 - Use of devices in shared rooms
 - Fees associated with electronic monitoring
 - Ownership of recordings
 - Reporting requirements for incidents
 - Requirement of the ALF to develop policies and procedures

Section 755: Electronic monitoring in resident rooms

» A. In accordance with § 63.2-1808.2 of the Code of Virginia, electronic monitoring shall be permitted only:

1. Upon the informed consent of the resident or resident's legal representative, which shall be obtained prior to the installation or use of any electronic monitoring device. Consent for electronic monitoring shall be kept in the resident's record;
2. When the resident resides:
 - a. In a room with no roommates; or
 - b. In a room with any roommates and obtains written consent to visual recording from such roommates or, if any roommate has been legally deemed incompetent, such roommate's legal representative. When a resident resides with any roommates, only video electronic monitoring shall be permitted pursuant to this subsection;

Section 755: Electronic monitoring in resident rooms

» A. In accordance with § 63.2-1808.2 of the Code of Virginia, electronic monitoring shall be permitted only:

3. Upon execution of an agreement for the sharing and release of medical data and information protected by the federal Health Insurance Portability and Accountability Act of 1996 (42 USC § 1320d et seq.) signed by the resident or resident's legal representative or, if applicable, any such agreement signed by any roommate or roommate's legal representative shall be kept in all consenting individuals' records; and
4. When the assisted living facility has secured and password-protected wireless Internet access or other means available to operate the electronic monitoring device without modification to the assisted living facility or a change in level or capacity of Internet access.

Section 755: Electronic monitoring in resident rooms

- » B. A facility shall allow electronic monitoring when it is conducted in accordance with this section. A facility shall not refuse to admit an individual and shall not discharge or transfer a resident due to a request to conduct authorized electronic monitoring.**
- » C. A written request signed by the resident or resident's legal guardian shall be on file when a request is made to utilize electronic monitoring in a resident's room.**

Section 755: Electronic monitoring in resident rooms

» D. A facility shall have written policies and procedures for electronic monitoring consistent with this section and § 63.2-1808.2 of the Code of Virginia, to include:

- 1. Prohibiting assigned staff from refusing to enter a resident's room solely because of electronic monitoring; and
- 2. Prohibiting staff from willfully tampering with electronic monitoring devices in violation of this section. Adjusting or disabling an electronic monitoring device during the provision of patient care shall not constitute willful tampering if such adjusting or disabling is done in order to protect the dignity of a resident or at the direction of the resident or resident's legal representative.

Section 755: Electronic monitoring in resident rooms

- » E. A facility shall designate one or more staff persons to be the point of contact for electronic monitoring requests and providing information and policies upon request during normal business hours.**
- » F. A facility shall not allow electronic monitoring if the resident or resident's legal representative indicates objection to electronic monitoring.**
- » G. The facility shall conspicuously post and maintain a notice at the entrance to the resident's room stating that an electronic monitoring device is in operation.**
- » H. The facility shall notify assigned staff for the resident when electronic monitoring is in use in a resident's room pursuant to this section and § 63.2-1808.2 of the Code of Virginia.**

Section 755: Electronic monitoring in resident rooms

- » I. Should a resident, resident's legal representative or family member choose to install an electronic monitoring device, in accordance with this section and § 63.2-1808.2 of the Code of Virginia, the facility shall not be responsible for costs, other than the cost of electricity, associated with the purchase and installation of the electronic monitoring device.**
- » J. The facility shall make reasonable physical accommodations for electronic monitoring devices, including:**
 - 1. Providing a reasonable, secure place to mount the device; and
 - 2. Providing reasonable access to power sources if already in proximity to the device.

Section 755: Electronic monitoring in resident rooms

- » K. If the facility provides facility-managed electronic monitoring utilizing devices installed and maintained by the facility, then the facility may charge a one-time fee not to exceed \$150 for installation and a fee not to exceed \$250 as a security deposit for the device. The facility may charge a monthly fee, not to exceed \$10, to cover the costs associated with the electronic monitoring device as outlined in § 63.2-1808.2 of the Code of Virginia. The facility shall provide a 45-day notice of an increase in electronic monitoring monthly fees.**

Section 755: Electronic monitoring in resident rooms

- » **L. The resident or resident's legal representative of a room with an electronic monitoring device may describe conditions, verbally or in writing, for the consent to install or use of an electronic monitoring device. If the resident or resident's legal representative or any roommate or roommate's legal representative places conditions on consent, the facility and staff shall ensure that the installation, use, and operation of the electronic monitoring device and any electronic monitoring or other activities conducted in connection to electronic monitoring is in compliance with the conditions. Such conditions on consent may include:**
1. The ability of the resident, any roommate, or staff at the request of the resident or any roommate to turn off or disable the audio or video electronic monitoring device during certain periods of time; or
 2. A prohibition on the ability of the assisted living facility to, pursuant to subsection N, choose to assume custodial ownership of any recordings from the electronic monitoring device after the electronic monitoring device has been installed and is operational.

Section 755: Electronic monitoring in resident rooms

- » M. An assisted living facility shall require its staff to immediately report any incidents regarding safety or quality of care discovered or reported to staff as a result of viewing a recording from an electronic monitoring device to the administrator of the assisted living facility.**

Section 755: Electronic monitoring in resident rooms

» N. Ownership of electronic monitoring recordings.

1. Except as provided in subsection L of this section, assisted living facilities may assume custodial ownership of any recordings from electronic monitoring devices from the resident or resident's legal representative. Recordings from electronic monitoring devices shall not be considered part of the resident's record.
2. If an assisted living facility chooses to assume ownership of recordings from electronic monitoring devices pursuant to subdivision 1 of this subsection, the assisted living facility shall not permit viewings of recordings without consent of the resident or resident's legal representative except to the extent that disclosure is required by law or for quality assurance purposes.

Section 755: Electronic monitoring in resident rooms

» N. Ownership of electronic monitoring recordings.

3. An assisted living facility shall not be held liable for any breach of data or privacy related to the presence of the electronic monitoring device.

4. An assisted living facility shall have no obligation to seek access to a recording for which it has not assumed custodial ownership or to have knowledge of a recording's content unless (i) the assisted living facility is aware of a recorded incident of suspected abuse or neglect or of an accident or injury based upon a report received by the facility of such incident, accident, or injury or (ii) the resident, the resident's legal representative, or a government agency seeks to use a recording.

5. Unless an assisted living facility chooses to assume ownership of any recordings from an electronic monitoring device, the resident or resident's legal representative shall be responsible for all aspects of the operation of the electronic monitoring device, including the removal and replacement of recordings; adherence to local, state, and federal privacy laws; and use of firewall protections to prevent images that would violate obscenity laws from being inadvertently shown on the Internet.

Section 755: Electronic monitoring in resident rooms

- » O. If the placement or position of the electronic monitoring device creates risk to an assisted living facility employee, resident, or any roommate, or if the resident or resident's legal representative or family member violates the assisted living facility's policies and procedures for electronic monitoring, the equipment may be disabled and removed and the resident, resident's legal representative, or family member responsible for the electronic monitoring device shall be notified of the removal.**

Resources

» **22VAC40-73: Standards for Licensed Assisted Living Facilities**

» **Exempt Action on VA Townhall website**

» **HB 1522**

- § 63.2-1701. B of the Code of Virginia for reference to the AED requirement
- § 32.1-111.1. AED Definition
- Information about AEDs on the FDA website
- FDA-Approved AEDs
- ALF Staff Information Sheet has been updated to include AED training

» **SB 409**

- § 63.2-1808.2. Electronic monitoring in resident rooms
- DSS Model Form: Authorization for Release of Confidential Information

» **VDSS Website** for and updated copy of **22VAC40-73** (available after 11/4/26)

Thank you!