



Department of Health

ANDREW M. CUOMO
Governor

HOWARD A. ZUCKER, M.D., J.D.
Commissioner

SALLY DRESLIN, M.S., R.N.
Executive Deputy Commissioner

December 27, 2017

DAL: DAL 17-25

Subject: Adult Care Facility/Assisted Living
30-Day Notice of Termination Update

Dear Administrator:

This letter is to inform you that the Division of Adult Care Facility/Assisted Living Surveillance has developed a 30-Day Notice of Termination that is required to be used whenever a decision is made to terminate a resident's Admission/Residency Agreement. The 30-Day Notice of Termination is in accordance with Adult Care Facility Regulations found in 18 NYCRR Parts 487.5(f) and 488.5(e) and is a Department mandated form. Its use is effective immediately and replaces both the guidance and DOH-5237 form distributed with the August 1, 2017 Dear Administrator Letter (DAL 17-14).

Please be reminded that pursuant to 18 NYCRR Parts 487.5(f)(5) and 488.5(e)(7), a list of legal and advocacy services must be provided to the resident and/or resident representative as an attachment to this form. The Operator or Administrator is required to sign the form on the space provided, confirming that they provided this information to the resident and/or resident representative. Revisions to the process governing termination of the Admission or Residency Agreement include:

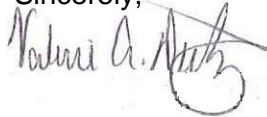
1. The Operator must either (1) collect the signature of the resident or, if the resident is unable to sign, the resident representative on the notice of termination form, or
2. Engage a third party to deliver the notice of termination in one of the following manners:
 - (a) if the resident is admitted to the operator's Special Needs Assisted Living Residence (SNALR) program, or has otherwise been declared incompetent and has had a guardian appointed, service to the resident's representative or next of kin by certified mail, with a copy to the resident by certified mail;
 - (b) if to a resident that is not residing in a SNALR, or to a resident for whom a guardian has not been appointed, personal service to the resident at the facility or, if the resident has been transferred for treatment, to the resident at that location, with a copy to the resident representative by certified mail. For service upon such a resident, the notice must be served personally, and all forms of substituted service, such as affixing the notice to the door of the resident's room, delivery by mail or delivery to another person on behalf of the resident, shall not be permitted.

When service of the notice is made in lieu of obtaining a signature, the operator must maintain documentation of the date and time such service was completed from the person performing the service.

Pursuant to 18 NYCRR Parts 487.5(f)(4)(iii-iv) and 488.5(e)(6)(iii-iv), the resident has the right to object to the termination of the agreement and the subsequent discharge and that, if the resident does object, he/she may remain in the facility while the operator commences a court proceeding, and unless the court finds in favor of the operator.

If you have questions, please contact the Division of ACF/Assisted Living Surveillance at (518) 408-1133.

Sincerely,

A handwritten signature in dark ink, appearing to read "Valerie A. Deetz", written over a faint, circular official stamp.

Valerie A. Deetz, Director
Division of Adult Care Facilities and Assisted Living
Surveillance

Attachment

cc: Tim Perry-Coon
Bobbie Barrington
Patricia Hasan
Norine Nickason
John Pinto
John VanDyke