



KATHY HOCHUL
Governor

Department of Health

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

KRISTIN M. PROUD
Acting Executive Deputy Commissioner

November 23, 2021

DAL: DAL #21-29

Compliance with the Americans with Disabilities Act

Dear Adult Care Facility Administrator:

This Dear Administrator Letter (DAL) is being issued pursuant to the New York State Administrative Procedures Act to provide notification to small businesses and local governments of proposed regulatory changes.

The New York State Department of Health ("Department") plans to amend Title 18 of the New York Codes, Rules, and Regulations (NYCRR) sections 487.4, 488.4, and 490.4 to clarify the requirement for adult care facility (ACF) operators to comply with the Americans with Disabilities Act (ADA). These specific sections impact admission and retention standards for all ACFs licensed by the Department, and the proposed changes seek to align this regulatory subset with the ADA. The proposed rule will clarify the ACF admission and retention threshold and underscore the requirement for strong safety measures in the event of an emergency facility evacuation by defining the term "self-preservation" in the context of ACF emergency evacuation and adding provisions that require the operator to determine its ability to safely meet the needs of the individual in compliance with the local fire codes and through available staffing levels as needed to safely evacuate the individual when needed and to assess the individual for the ability to self-preserve in an emergency situation.

A 60-day public comment period will be provided upon publication of these proposed regulatory amendments in the State Register. The full version of the regulatory notice will also be made available online at <https://regs.health.ny.gov/regulations/proposed-rule-making>. The public comment period will open and public comments will be accepted by the Department beginning on the date of State Register publication.

If you have any questions regarding the contents of this DAL, please write to transitionalah@health.ny.gov.

Sincerely,

Heidi L. Hayes, Acting Director
Division of Adult Care Facility
and Assisted Living Surveillance

cc: J. Treacy
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