

§16-5D-2. Definitions.

(a) As used in this article, unless a different meaning appears from the context:

(1) "Assisted living residence" means any living facility, residence or place of accommodation, however named, available for four or more residents, in this state which is advertised, offered, maintained or operated by the ownership or management, whether for a consideration or not, for the express or implied purpose of having personal assistance or supervision, or both, provided to any residents therein who are dependent upon the services of others by reason of physical or mental impairment and who may also require nursing care at a level that is not greater than limited and intermittent nursing care: *Provided*, That the care or treatment in a household, whether for compensation or not, of any person related by blood or marriage, within the degree of consanguinity of second cousin to the head of the household, or his or her spouse, may not be deemed to constitute an assisted living residence within the meaning of this article. Nothing contained in this article applies to hospitals, as defined under section one, article five-b of this chapter; or state institutions, as defined under section three, article one, chapter twenty-five of this code or section six, article one, chapter twenty-seven of this code; or personal care homes operated by the federal government or the state; or institutions operated for the treatment and care of alcoholic patients; or offices of physicians; or hotels, boarding homes or other similar places that furnish to their guests only room and board; or to homes or asylums operated by fraternal orders pursuant to article three, chapter thirty-five of this code;

(2) "Deficiency" means a statement of the rule and the fact that compliance has not been established and the reasons therefor;

(3) "Department" means the state Department of Health and Human Resources;

(4) "Division" means the Bureau for Public Health of the state Department of Health and Human Resources;

(5) "Limited and intermittent nursing care" means direct hands on nursing care of an individual who needs no more than two hours of nursing care per day for a period of time no longer than ninety consecutive days per episode: *Provided*, That such time limitations shall not apply to an individual who, after having established a residence in an assisted living residence, subsequently

qualifies for and receives services coordinated by a licensed hospice and such time limitations shall not apply to home health services provided by a Medicarecertified home health agency. Limited and intermittent nursing care may only be provided by or under the supervision of a registered professional nurse and in accordance with rules proposed by the secretary for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code;

(6) "Nursing care" means those procedures commonly employed in providing for the physical, emotional and rehabilitational needs of the ill or otherwise incapacitated which require technical skills and knowledge beyond that which the untrained person possesses, including, but not limited to, such procedures as: Irrigations, catheterization, special procedures contributing to rehabilitation and administration of medication by any method which involves a level of complexity and skill in administration not possessed by the untrained person;

(7) "Person" means an individual and every form of organization, whether incorporated or unincorporated, including any partnership, corporation, trust, association or political subdivision of the state;

(8) "Personal assistance" means personal services, including, but not limited to, the following: Help in walking, bathing, dressing, feeding or getting in or out of bed, or supervision required because of the age or mental impairment of the resident;

(9) "Resident" means an individual living in an assisted living residence for the purpose of receiving personal assistance or limited and intermittent nursing services;

(10) "Secretary" means the secretary of the state Department of Health and Human Resources or his or her designee; and

(11) "Substantial compliance" means a level of compliance with the rules such that identified deficiencies pose no greater risk to resident health or safety than the potential for causing minimal harm.

(b) The secretary may define in rules any term used herein which is not expressly defined.