

ASSISTED LIVING: Statements of Danger

Assisted Living Training

October 7, 2009



Recap: Why Did DAIL Want The Statement of Danger?

- ❑ When clients are determined to be a danger, the situation needs to be resolved quickly
- ❑ A complaint in April 2008 revealed at least **6** clients who were a danger in one community, and the situation was not completely resolved until July 2008
- ❑ The department was genuinely concerned about this situation and this was a catalyst for changes to the regulation

DAIL-ALC-4 Statement of Danger

910 KAR 1:240 Section 8 (Amended 03-11-09)

(9) If the department finds during a complaint or certification review that a client is a danger, the department shall:

- (a) immediately notify the ALC as established in Section 7(4) of this administrative regulation {prior to completion of the on-site visit at the ALC, a department representative shall hold a meeting with the ALC manager or designee to discuss the preliminary results of the on-site visit}; and
- (b) Provide the DAIL-ALC-4, Statement of Danger to the ALC.



What does this mean?

During an on-site visit, if a department staff finds that a client(s) of an ALC is a danger:

- ❑ They will notify the ALC director during the exit conference of the finding
 - ❑ Issue the DAIL-ALC-4 Statement of Danger
- ↪ If someone is truly a danger, the situation should not wait over the normal course of time it takes to issue a SONC (15 days)
- ↪ If a DAIL staff member makes a friendly visit and witnesses a situation they believe to be a danger, that will become a complaint initiated by the DAIL staff member

Update on Statements of Danger

- 910 KAR 1:240 was amended on 03-11-09 to introduce the DAIL-ALC-4 Statement of Danger under Section 8 Assisted Living On-Site Review Findings
- In the six months since the amendment, DAIL has issued six Statements of Danger. All were the result of complaint investigations.

EXAMPLE 1

DAIL-ALC-4 Statement of Danger

Edition 2/09

Assisted Living Community: _____

Date of Review: 5/14/09 Reviewer: Melissa Dalton Hopkins

During an on-site review by the Department for Aging and Independent Living it was determined that the above assisted-living community has clients residing in the assisted-living community that pose a danger as defined in KRS 194A.700 (5).

Client Name	Apartment Number
	140
Comments	
With current skin condition in the buttock region and client's inability to apply prescription antifungal cream twice daily as labeled, client's health is compromised. No documentation was present verifying wound treatment to the buttock region by an outside provider. Client is unable to effectively self-evacuate in case of an emergency. Additional Services Plan dated (over)	

This is official written notification that you have forty-eight (48) hours (If on a Friday then by 4:30pm E.S.T. the next business day, of receiving the DAIL-ALC-4) to submit a written response via email, fax, hand delivery or overnight postal service to the department that confirms how the danger has been eliminated or why the danger is unverified; or initiate a move-out notice and begin the process of assisting the client to find appropriate living arrangements and submit a written response via email, fax, hand delivery or overnight postal service to the department that confirms the assisted-living community took the required action.

EXAMPLE 1

DAIL-ALC-4 Statement of Danger

Edition 2/09

Assisted Living Community: _____

Date of Review: 5/14/09 Reviewer: Melissa Dalton Hopkins

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Client Name	Apartment Number
	140
<p>(cont'd from page 1) Comments</p> <p>11/08 does not sufficiently address client evacuation and states end-of-life services are in place. However, there is no documentation verifying end-of-life services for client.</p>	

This is official written notification that you have forty-eight (48) hours (If on a Friday then by 4:30pm E.S.T. the next business day, of receiving the DAIL-ALC-4) to submit a written response via email, fax, hand delivery or overnight postal service to the department that confirms how the danger has been eliminated or why the danger is unverified; or initiate a move-out notice and begin the process of assisting the client to find appropriate living arrangements and submit a written response via email, fax, hand delivery or overnight postal service to the department that confirms the assisted-living community took the required action.



DAIL-ALC-4 Statement of Danger

Example 1 – Statement of Danger (Issued Thursday)

- Client with decubitus ulcer
- Client unable to self-administer prescription cream to wound
- Client diagnosed with MRSA on legs that was being treated by an outside provider
- Outside provider was not treating decubitus ulcer
- Client wheelchair bound
- Due to limited mobility Client could not effectively assist with transferring
- Client's ability to self-evacuate in case of an emergency was compromised
- No plan in place that adequately addressed client's safety
- No documentation of a temporary health condition, or end-of-life services

DAIL-ALC-4 Statement of Danger

Example 1 – Plan of Correction (Due Saturday)

- Notice issued that client must immediately move out of the ALC
- ALC assisted client with relocation efforts
- Until such time as client is relocated, family members will come to the ALC twice per day to apply prescription medication to skin condition
- A private companion was hired to evacuate the client in the event of an emergency. The private companion will remain with the client until the time the client moves out of the community

Statement of Danger Timeframes

910 KAR 1:240 Section 8 Assisted-Living On-Site Review Findings

(10) Within forty eight (48) hours, unless issued on a Friday and then by 4:30pm EST of the next business day, of receiving the DAIL-ALC-4, Statement of Danger, the ALC shall begin to implement a plan to correct the danger in accordance with Section 9(2)(e)1 or 2 of this administrative regulation.

What does this mean?

- ❑ If an ALC receives a DAIL-ALC-4, staff has 48 hours to begin to correct the issue
- ❑ If this is issued on a Friday, staff has until 4:30pm EST on Monday
- ❑ If Monday is a recognized state holiday, staff has until 4:30pm EST on Tuesday

State Recognized Holidays

- New Years Day
- Martin Luther King Day
- Memorial Day
- Independence Day
- Labor Day
- Veterans Day
- Election Day
- Thanksgiving Day and Friday after
- Christmas Eve
- Christmas Day
- New Years Eve

A RESPONSE IS REQUIRED

910 KAR 1:240 Section 9 Denial and Revocation of Certification (2) (e) 1.

Within forty eight (48) hours, unless issued on a Friday and then by 4:30p.m. eastern standard time of the next business day, of receiving the DAIL-ALC-4 Statement of Danger, the assisted-living community shall submit a written response to the department that confirms how the danger has been eliminated or why the danger is disputed with submissions occurring via:

- a. Email
- b. Facsimile transmission
- c. Delivery to the Department by hand;
- d. United States mail; or
- e. Courier service



The Adult Protective Services Referral

When DAIL staff issues a Statement of Danger, DAIL staff is required to make an Adult Protective Services referral.

910 KAR 1:240 Section 8 On-Site Review Findings

(11) The department shall make a report of suspected abuse, neglect, or exploitation to Adult Protective Services in accordance with KRS 209.030(3).

Why was this added?

- ❑ The department always had the obligation to report suspected abuse, neglect or exploitation as Kentucky is a mandatory reporting state
- ❑ We wanted to be sure that the ALC's understood that this is our obligation
- ❑ When we find situations where clients are not in the appropriate level of care, this is caregiver neglect on the part of the ALC for allowing the situation to occur and continue

What does this mean?

- ❑ If the only way to eliminate the danger is for the client to move out of the ALC, or if this is the method of choice, the ALC should issue a written move-out notice
- ❑ Documentation would consist of the move-out notice and what the ALC did to assist in finding alternative living arrangements, including where the client is relocating

EXAMPLE 2

DAIL-ALC-4 Statement of Danger

Revision 2/09

①

Assisted Living Community: _____

Date of Review: 4/1/09

Reviewer: C. PIERABREA

During an on-site review by the Department for Aging and Independent Living it was determined that the above assisted-living community has clients residing in the assisted-living community that pose a danger as defined in KRS 194A.700 (5).

Client Name	Apartment Number
	# 12
<p>Comments HIGHLY CONFUSED & DISORGANIZED THOUGHT PROCESS/DOES NOT RECOGNIZE DAUGHTER AS BEING DGER. - WANDERS IN THIS CONFUSED STATE BOTH INSIDE AND OUTSIDE. PRESENTS CLEAR & PRESENT ESCAPEMENT DANGER. (HAS DIAGNOSIS OF DEMENTIA) - UNABLE TO COGNITIVELY PROCESS EVEN SIMPLE STATEMENTS - UNABLE TO UNDERSTAND NATURE OF FIRE DRILL. UNABLE TO EVACUATE DUE TO CONFUSION/REQUIRES PHYSICAL ASST. TO EVACUATE</p>	

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DAIL-ALC-4 Statement of Danger

Example 2 – Statement of Danger (Issued Tuesday)

- Client has a diagnosis of dementia
- Client presented as highly confused with disorganized thought process
- Client did not recognize her daughter as being her daughter
- Client wanders inside the ALC and outside of the ALC
- Client presents a danger to herself due to wander risk
- Client unable to understand nature of a fire drill
- Client unable to self-evacuate due to level of confusion
- Client must be physically assisted to evacuate the ALC

DAIL-ALC-4 Statement of Danger

Example 2 – Plan of Correction (Due Thursday)

- ALC issued move-out notice to Client through Family/Responsible Person
- Family/Responsible Person plan to move Client to an identified Long-Term Care Facility within 2 weeks
- Family/Responsible Person to provide sitters 24/7 for Client until Client moves to ensure Client's safety
- To prevent future occurrences of the ALC maintaining clients beyond the level of care for ALC, Manager planned to meet with ALC staff to discuss appropriate/accurate Functional Needs Assessments, especially with marked changes in clients abilities/care needs

THE FOLLOW-UP STATEMENT OF NON-COMPLIANCE

- DAIL staff issues the Statement of Danger and makes an Adult Protective Services referral.
- The Community submits a written response.
- The response is accepted
- A Statement of Non-compliance is issued asking the ALC what changes they will make in their protocols around Functional Needs Assessments to prevent the situation in the future

OR



Client remains a danger

- DAIL informs the ALC in writing that the client remains a danger.

- 910 KAR 1:240 Section 9 (3)

If, after reviewing the assisted-living community's written response pursuant to subsection (2)(e)1 of this section, the department determines the client remains a danger, the department shall notify the assisted-living community in writing that:

Client remains a danger

- (a) Certification may be denied or revoked;
- (b) The assisted-living community has the right to an informal dispute resolution meeting

To Avoid a Statement of Danger

1. Ensure all clients meet the Criteria under 194A.711 at all times
2. Do Functional Needs Assessments regularly and any time you see a marked change in client functioning
3. Document Temporary Health Conditions around mobility in client file as soon as they occur to ensure safety and Not a Danger
4. Issue a Move-out Notice as soon as you feel it is needed.