NEGOTIATED RISK AGREEMENTS

A Negotiated Risk Agreement is an agreement between the resident and the Assisted Living Services Agency (or, in some instances, the Managed Residential Community) that sets forth a negotiated client service plan or negotiated limits on the resident's activities. These agreements are usually a compromise between the recommendation of the ALSA (or the MRC) and the wishes of the resident. Negotiated Risk Agreements support residents' autonomy and desire for independence.

A Negotiated Risk Agreement is used in addition to the customary service plan. Negotiated Risk Agreements are appropriate for use when the ALSA/MRC has made a recommendation regarding care or services that is refused by the resident and the refusal poses a serious risk to the health or safety of the resident or other residents; or when a resident's refusal to comply with a requirement of the MRC poses such a risk.

Negotiated Risk Agreements should not be used when, in the carefully considered judgment of the ALSA (or MRC), any possible compromise, or the compromise acceptable to the resident, poses an unreasonable danger to the health or safety of the resident or other persons. If the resident's (or representative's) refusal of the ALSA's or MRC's recommendation(s) poses such a risk, the ALSA/MRC may decide not to admit the resident or to require the resident to leave the community.

A Negotiated Risk Agreement is entered into only after the resident has been informed of the risks of refusing the ALSA's recommendation and the risks of the compromise.

Negotiated Risk Agreements are not required. The ALSA/MRC may decide not to enter into such an agreement in each case, or as a general policy.
A Negotiated Risk Agreement requires discussion and agreement by both the ALSA (or MRC) and the resident. If the resident is incapable of making the decision at issue, the resident's representative (conservator, attorney-in-fact for health care or next-of-kin) may enter into a Negotiated Risk Agreement on behalf of the resident. If the resident is capable of making the decision, family involvement in discussions regarding Negotiated Risk Agreements (with the resident's consent) is recommended.

A Negotiated Risk Agreement is specific and personal, and becomes part of the resident's individualized service plan. A Negotiated Risk Agreement must be documented (see Suggested Agreement, attached).

A Negotiated Risk Agreement should include documentation of the following elements:

The ALSA's (or MRC's) recommendation.

The resident's (or representative's) refusal.

Risk(s) resulting from the refusal.

Alternative course(s) of action.

Risk(s) resulting from the alternative course(s) of action.

Agreement between the ALSA (or MRC) and resident (or representative) as to the compromise alternative.

Signatures of the ALSA (or MRC) representative and the resident (or representative).

The ALSA/MRC should have a plan to implement the agreement and a timetable for review.