

Colorado

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Licensure Term Assisted Living Residences

Opening Statement The Department of Public Health and Environment licenses assisted living residences (ALRs). ALRs must comply with additional requirements if they provide a secure environment, which is when the right of any resident to move outside the environment during any hours is limited.

Residences that are certified to receive Medicaid reimbursement, called alternative care facilities, must meet additional requirements. Facilities are eligible for reduced licensing fees if 35 percent or more of the licensed beds are occupied by Medicaid enrollees for at least nine months in a fiscal year.

Legislative and Regulatory Update

Colorado recently made significant changes to its regulations for ALRs, effective June 14, 2018. A 3-year roll out period will be in effect following this date to ensure residences have opportunity to come into compliance with the new rules. The changes included, but are not limited to: abuse, neglect or exploitation reporting requirements; more specificity on staff background checks; training; emergency preparedness; admission and discharge criteria; the provision of nursing services; a fall management program; expanded resident rights; updated medication section; and physical plant standards and compliance with the Facility Guidelines Institute.

SB 18-054, passed by the Colorado General Assembly in 2018, imposes an inflation rate limitation on licensing fee increases assessed against assisted living residences, effective 2019.

HB 19-1268, passed by the Colorado General Assembly during the 2019 legislative session, requires that any individual or entity who refers a prospective resident to an assisted living residence for a fee must disclose any business relationship the individual or entity has with the residence and that the residence pays for the referral. The

legislation also sets forth penalties for violation.

Definition

ALRs are residential facilities that make available to three or more adults who are unrelated to the owner, either directly or indirectly through an agreement between the provider and the resident, room and board and at least the following services: personal services; protective oversight; social care due to impaired capacity to live independently; and regular supervision that must be available on a 24-hour basis, but not to the extent that regular 24-hour medical or nursing care is required.

Another type of assisted living is a residential treatment facility for the mentally ill, which has received program approval from the Department of Human Services and provides treatment for psychiatric needs for no more than 16 mentally ill individuals not related to the licensee and are provided treatment commensurate to the individuals' psychiatric needs which has received program approval from the Department of Human Services.

An assisted living residence can also mean a Supportive Living Program residence that is certified by the Colorado Department of Health Care Policy and Financing to also provide health maintenance activities, behavioral management and education, independent living skills training and other related services as set forth in the supportive living program regulations.

Disclosure Items

The ALR must ensure that a new resident is provided with and acknowledges receipt of the following information: how to obtain access to the assisted living residence policies and procedures; the resident's right to receive CPR or have a written advance directive refusing CPR; minimum staffing levels, whether the ALR has awake staff 24 hours a day, and the extent to which certified or licensed health care professionals are available on-site; whether the ALR has an automatic fire sprinkler system; whether the ALR uses egress alert devices; whether the ALR has resident location monitoring devices, when and where they are used, and how the ALR determines that a resident requires monitoring; whether the ALR operates a secure environment and what that means; the resident's individualized care plan that addresses his or her functional capability and needs; smoking prohibitions and/or designated smoking areas; the readily available on-site location of the most recent inspection report; and upon request, a copy of the most recent version of the ALR licensing rules. The written agreement between the parties must also cover specified topics. Additional disclosures are required if a resident is entering a secure environment.

Facility Scope of Care

The facility must make available, either directly or indirectly, through a resident agreement the following services sufficient to meet the needs of the residents: a physically safe and sanitary environment; room and board; personal services; protective oversight; and social care and resident engagement. Personal services include, but are not limited to, a system for identifying and reporting resident concerns that require either an immediate individualized approach or ongoing monitoring and possible re-assessment. Protective oversight includes, but is not limited to, taking appropriate measures when confronted with an unanticipated situation or event involving one or more residents and the identification of urgent issues or concerns that require an immediate individualized approach. Nurses may provide nursing services to support the personal care services provided to residents of the ALR, except that such services should not rise to the level that requires discharge as described below or becomes regular 24-hour medical or nursing care.

Third Party Scope of Care

External service providers, which include, but are not limited to, home health, hospice, private pay caregivers, and family members are allowed. ALRs may enter into a written agreement with external service providers such as home health and hospice. Rules address coordination between the ALR and third-party providers. ALRs are responsible for overseeing contracted personnel and services.

Admission and Retention Policy

Only residents whose needs can be met by the facility within its licensure category shall be admitted. The facility's ability to meet resident needs shall be based upon a comprehensive pre-admission assessment of the resident's: physical, health, and social needs; preferences; and capacity for self-care.

An ALR may not allow to move-in any person who: (1) needs regular 24-hour medical or nursing care; (2) is incapable of self-administration of medication and the ALR does not have licensed or qualified staff; (3) has an acute physical illness that cannot be managed through medication or prescribed therapy; (4) has physical limitations that restrict mobility unless compensated for by available auxiliary aids or intermittent staff assistance; (5) has incontinence issues that cannot be managed by the resident or staff; (6) is profoundly disoriented to time, person and place with safety concerns that require a secure environment and the ALR does not provide a secure environment; (7) has a stage 3 or 4 pressure sore and does not meet other criteria; (8) has a history of conduct that has been disclosed to the ALR that would pose a danger to the resident or others, unless the ALR reasonably believes that the conduct can be managed through therapeutic approaches; or (9)

needs restraints of any kind except in specified situations.

An ALR must arrange to discharge any resident who: (1) has an acute physical illness that cannot be managed through medication or prescribed therapy; (2) has physical limitations that restrict mobility unless compensated for by available auxiliary aids or intermittent staff assistance; (3) has incontinence issues that cannot be managed by the resident or staff; (4) has a stage 3 or 4 pressure sore and does not meet other specified criteria; (5) is profoundly disoriented to time, person and place with safety concerns that require a secure environment and the ALR does not provide a secure environment; (6) exhibits conduct that poses a danger to self or others and the ALR is unable to sufficiently address those issues through a therapeutic approach; or (7) needs more services than can be routinely provided by the ALR or an external service provider. The ALR may also discharge for nonpayment of basic services in accordance with the resident agreement or the resident's failure to comply with a valid, signed resident agreement.

Resident Assessment

An ALR must complete a comprehensive pre-admission assessment that includes: a resident's physical, mental and social need; cultural, religious and activity needs; preferences; and capacity for self-care. At the time the resident moves in, the ALR shall complete a comprehensive assessment that includes: information from the comprehensive pre-admission assessment; information regarding the resident's overall health and physical functioning ability; information regarding the resident's advance directives; communication ability and specific needs to facilitate effective communication; current diagnoses and any known or anticipated need or impact related to the diagnoses; food and dining preferences, unique needs and restrictions; individual bathroom routines, sleep and awake patterns; reactions to the environment and others, including changes that may occur at certain times or in certain circumstances; routines and interests; history and circumstances of recent falls and any known approaches to prevent future falls; safety awareness; types of physical, mental and social support required; and personal background, including information regarding any other individuals who are supportive of the resident, cultural preferences and spiritual needs. The comprehensive assessment must be updated for each resident annually and whenever the resident's condition changes from baseline status.

There is no standard required assessment form.

Medication Management

All personal medication is the property of the resident and no resident shall be required to surrender the right to possess or self-

administer any personal medication, unless an authorized practitioner has determined that the resident lacks the decisional capacity to possess or self-administer such medication safely.

For residents who are unable to self-administer medications, medications must be given by a practitioner, nurse, qualified medication administration person, or certified nurse medication aide acting within the scope of practice. The regulations specify additional details regarding when staff may administer or assist with administering medication to a resident.

Square Feet Requirements Private resident units must be a minimum of 100 square feet and double occupancy resident units must provide a minimum of 60 square feet per resident. Bathroom and closet areas shall not be included in the determination of square footage.

Residents Allowed Per Room A maximum of two residents is allowed per resident unit. In facilities licensed prior to July 1, 1986, up to four residents are allowed per room, until either a renovation or a change of ownership occurs.

Bathroom Requirements Shared bathrooms are permitted with at least one full bathroom for every six residents. A full bathroom shall consist of at least the following fixtures: a toilet, hand washing station, mirror, private individual storage for resident personal effects, and shower.

If one or more residents utilizes an auxiliary aid, the facility shall provide at least one full bathroom with fixtures positioned so as to be fully accessible to any resident utilizing an auxiliary aid.

Life Safety An ALR must be constructed in conformity with the standards adopted by the Director of the Division of Fire Prevention and Control at the Colorado Department of Public Safety.

An ALR applying for an initial license on or after June 1, 2019 must comply with specified parts of the Guidelines for Design and Construction of Residential Health, Care and Support Facilities, Facility Guidelines Institute (FGI) (2018 Edition), unless otherwise indicated. Renovations of an existing ALR that is initiated on or after December 1, 2019 must also comply. Small model assisted living facilities applying for a license for 10 beds or less are exempt from compliance with FGI guidelines.

Existing facilities are required to meet the 2012 Life Safety Code, or NFPA 101A Guide on Alternative Approaches to Life Safety (2013 edition). Requirements for sprinklers, fire alarm systems, and smoke detection systems are dependent upon a facility's level of

Unit and Staffing Requirements for Serving Persons with Dementia

evacuation capability.

Secured units for the purpose of serving residents with Alzheimer's disease are allowed and additional requirements are set forth in the regulations.

Staffing must be adequate and staff must be trained to meet residents' needs. For those facilities choosing to provide secured care, at least one trained staff member must be in the secured unit at all times. Before a staff member is allowed to work independently in a secure unit, the ALR must provide each staff member with a minimum of eight hours of training and education on the provision of care and services for residents with dementia/cognitive impairment. Each staff member assigned to the secure unit must complete eight hours of continuing education within each 12-month period beginning with the date of initial assignment.

Staffing Requirements

An ALR must have an administrator who is responsible for the overall operation, and daily administration, management and maintenance of the facility. There are no staffing ratios in rule. Whenever one or more resident(s) are present in the ALR, there must be at least one staff member present who meets specified criteria and is capable of responding to an emergency, including at least one staff member onsite at all times who has first aid and CPR certifications. To determine appropriate routine staffing levels, the ALR must consider, at a minimum: the acuity and needs of the residents; the services outlined in the care plan; and the services set forth in the resident agreement. Staffing must be sufficient to help residents needing or potentially needing assistance, considering individual needs such as the risk of accident, hazards, or other challenging events.

Administrator Education/Training

Effective July 1, 2019, each newly hired administrator must be at least 21 years of age, possess a high school diploma or equivalent, and have at least one year of experience supervising the delivery of personal care services that includes activities of daily living. They must also undergo a background check.

An administrator recognized by the Department as having been an ALR administrator prior to July 1, 2019 is not required to meet the new criteria. Prior requirements were that operators must be at least 21 years of age and must meet the minimum educational, training, and experience standards in one of the following ways: completing a Department of Public Health-approved program or having documented previous job-related experience or education equivalent to successful completion of such program.

Each administrator must have completed an administrator training program before assuming the position. Effective January 1, 2019, an administrator training program must be conducted by an organization specified in the regulations and include at least 40 hours, 20 of which focus on applicable state regulation and 20 provide an overview of specified topics such as business operations, daily business management, physical plant, resident care, and resident psychosocial needs.

Staff Education/Training

Each staff member and volunteer who provide ALR services must complete an initial orientation before providing care and services to a resident. The orientation must include, at a minimum, all of the following: (1) the care and services provided by the ALR including palliative and/or end of life care, if applicable; (2) resident rights; (3) overview of state regulatory oversight applicable to the ALR; (4) hand hygiene and infection control; (5) recognizing emergencies, emergency response policies and procedures and relevant emergency contact numbers; (6) house rules; (7) person-centered care; and (8) reporting requirements.

Within 30 days of hire, the ALR must provide each staff member with training relevant to their duties and responsibilities. If the ALR uses a volunteer to perform any staff functions, that volunteer shall receive the same training as staff. All staff training must also cover specified topics, such as fall prevention and emergency procedures. Personal care workers must receive additional orientation before providing care and services. That training must cover: personal care worker duties and responsibilities; the differences between personal services and skilled care; and observation, reporting and documentation regarding a resident's change in functional status along with the ALR's response requirements.

**Entity Approving
CE Program
Medicaid Policy and
Reimbursement**

None specified.

A Medicaid home and community-based services waiver covers services in "alternative care facilities," which are ALRs certified by the Colorado Department of Health Care Policy and Financing to receive Medicaid reimbursement. Facilities are reimbursed for services on a flat rate based on residents' income.

Citations

Code of Colorado Regulations, Title 6, Chapter 7: Assisted Living Residences. [various effective dates between June 14, 2018 and July 1, 2019]
<http://www.sos.state.co.us/CCR/GenerateRulePdf.do?ruleVersionId=6354&fileName=6%20CCR%201011-1%20Chap%2007>

Code of Colorado Regulations, Title 6, Chapter 2: General Licensing Standards. [effective June 1, 2016]

<http://www.sos.state.co.us/CCR/6%20CCR%201011-1%20Chap%2002.pdf?ruleVersionId=6751&fileName=6%20CCR%201011-1%20Chap%2002>

Code of Colorado Regulations, Title 6, Chapter 24: Medication Administration Regulations. [effective July 1, 2017]

<https://www.sos.state.co.us/CCR/GenerateRulePdf.do?ruleVersionId=7214&fileName=6 CCR 1011-1 Chapter 24>

Colorado General Assembly, First Regular Session, 72nd General Assembly. HB 19-1268. Assisted Living Residence Referral Disclosures.

https://leg.colorado.gov/sites/default/files/documents/2019A/bills/2019a_1268_enr.pdf

Colorado Department of Health Care Policy and Financing, Health First Colorado (Medicaid Program): Alternative Care Facilities.

<https://www.colorado.gov/pacific/hcpf/alternative-care-facilities>

Colorado Department of Public Health and Environment

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