

Maine

Agency	Department of Health and Human Services, Division of Licensing and Certification
Contact	Heather Hyatt
E-mail	heather.hyatt@maine.gov or DLRS.info@maine.gov
Phone	(207) 287-9252
Website	https://www.maine.gov/dhhs/dlc/licensing-certification/assisted-housing

Licensure Term Assisted Housing Programs, which include Assisted Living Programs, Level I, II, III, and IV Residential Care Facilities, and Private Non-Medical Institutions

Opening Statement Maine’s Department of Health and Human Services, CDC, Division of Licensing and Certification, licenses several types of facilities that provide assisted living services under the umbrella licensing term of assisted housing programs. This includes assisted living programs, residential care facilities, and private non-medical institutions (PNMIs). The latter two have the same requirements and are licensed separately from assisted living programs because they receive Medicaid funding for the provision of personal care services and therefore must comply with additional requirements as specified in the licensing rules. The following applies to all assisted living housing programs unless otherwise specified.

Legislative and Regulatory Update In June 2021 rulemaking was passed to include infection prevention requirements similar to that of nursing homes for assisted housing providers. These requirements include the hire/contracting of an infection preventionist, implementation of an infection control plan and emergency staffing plan in the event of staffing shortages related to infectious outbreaks. This rule was finalized based on temporary rulemaking enforced during the COVID-19 pandemic.

Definition Assisted Living Program: May provide assisted living services to residents in private apartments in buildings that include a common dining area. Services are provided either directly by the assisted living program or indirectly through contracts with persons, entities, or agencies. Assisted living programs are categorized as Type I or Type II, which have different requirements for medication administration.

Residential Care Facility: A house or other place that is wholly or partly maintained for the purpose of providing residents with assisted living services. Residential care facilities provide housing and services to residents in private

or semi-private bedrooms in buildings with common living areas and dining areas. There are four levels based on the licensed capacity: Level I for one to two residents, Level II for three to six residents, Level III for three to six residents, or Level IV for more than six residents.

Private Non-medical Institution: A type of residential care facility that receives Medicaid funding for services.

Disclosure Items

Facilities are required to have a standardized contract for all new admissions and/or modification of an existing contract. The contract outlines the services that are provided and related costs. The facility's grievance procedure, tenancy obligations (if applicable), admissions policy, and resident rights must be appended to the contract. Facilities must also provide a packet to residents at the time of admission that includes advance directives information, information on the type of assisted living program and licensing status; Maine's Long Term Care Ombudsman Program brochure; advocacy and state agency contact information; process and criteria for transfer or discharge; and the assisted living program's staff qualifications.

Designated Alzheimer's/Dementia Care Units have additional disclosure requirements.

Facility Scope of Care

Assisted living services include but are not limited to personal supervision; protection from environmental hazards; assistance with activities of daily living (ADL) and instrumental activities of daily living (IADL); activities; dietary services; care management services; administration of medications; and nursing services.

Third Party Scope of Care

Assisted living services may be provided indirectly through written contracts with persons, entities, or agencies.

Admission and Retention Policy

Residents may be discharged if the services required cannot be met by the facility; the resident's intentional behavior results in substantial physical damage to the property; for non-payment; or if the resident becomes a direct threat to the health or safety of others.

For Level IV residential care facilities, the facility must determine whether each resident meets the approved admission criteria and may not refuse admission if the criteria are met except in specified circumstances, such as a person

whose tenancy would constitute a direct threat to the health or safety of other individuals.

Resident Assessment Residents residing in assisted living programs and residential care facilities Levels III and IV are required to be assessed within 30 calendar days of admission. For assisted living programs, reassessments must be completed at least every six months thereafter. For residential care facilities, reassessments must be completed annually or more frequently if there is a significant change in the resident's condition. The assessment must include a review of the consumer's need for assistance with ADLs, IADLs, medication administration and nursing service.

Medication Management Administration of medication is permitted and includes reading labels for residents; observing residents taking their medications; checking dosage; removing the prescribed dosage; and the maintenance of a medication record for each resident. Certain injections may be administered by trained medication aides.

Square Feet Requirements Assisted Living Program: None specified.

Residential Care Facility: Must be designed to meet the special needs of the population served. For facilities initially licensed on or after May 29, 1998, private resident bedrooms must be a minimum of 100 square feet and shared resident bedrooms must provide a minimum of 80 square feet per resident.

Residents Allowed Per Room Assisted Living Program: None specified.

Residential Care Facility: A maximum of two residents is allowed per resident unit.

Bathroom Requirements Assisted Living Program: None specified.

Residential Care Facility: Shared bathrooms are permitted at a ratio of at least one toilet per six users. For Level IV facilities, shared bathing facilities are also permitted at a ratio of one bathing facility for every 15 users.

Life Safety Life safety is governed by the state fire marshal's office. The National Fire Protection Association code is used. Life safety standards are applied depending on the type of facility and how/when it was built or bought.

Unit and Staffing Requirements for Serving Persons with Dementia

A building or unit may be designated as an Alzheimer's/Dementia Care Unit if specified requirements are met and the assisted living program has received written designation from the Department of Health and Human Services. All facilities with Alzheimer's/dementia care units must offer special weekly activities such as gross motor skills, self-care, and social, outdoor, spiritual, and sensory enhancement activities. The regulations also require specific physical plant design for Alzheimer's units. Facilities with an Alzheimer's unit are required to disclose certain information. Designated Alzheimer's/Dementia Care Units have additional disclosure requirements.

In addition to the required assisted living program training, preservice training is required for staff who work in Alzheimer's or dementia units, which includes a minimum of eight hours of orientation and eight hours of clinical orientation to all new employees assigned to the unit. Following the initial preservice training staff are required to complete annual competency education and the provide is required to show evidence of annual competency based assessments for each staff person working on these units.

Staffing Requirements

An on-site administrator must be employed by the facility. There are no staffing ratios, except as described below for Level IV residential care facilities.

Residential Care Facility: Minimum staffing shall be adequate to implement service plans, as well as to provide a safe setting. Level IV residential care facilities with 10 or fewer beds are required to have, at a minimum, one responsible adult present at all times to perform resident care and provide supervision. Facilities with more than 10 beds are required to have at least two responsible adults at all times. Level IV facilities with more than ten beds are required to have at least two responsible awake adults on duty and readily available at all times. In addition, the following ratios of minimum resident care staff-to-residents must be maintained at all times: 1:12 from 7:00 a.m. to 3:00 p.m., 1:18 from 3:00 p.m. to 11:00 p.m., and 1:30 from 11:00 p.m. to 7:00 a.m. There must also be a Certified Residential Medication Aide on duty at all times. These facilities are also required to have other specialists, including a dietary coordinator and retaining the services of a pharmacist

consultant no less than quarterly for facilities with more than 10 beds.

For Level IV residential care facilities, the state specifies requirements for the number of hours for administrators, which depend on the number of licensed beds.

Administrator Education/Training

Administrators must be at least 21 years of age, and hold a professional license related to residential care, assisted living programs or health care, or have a combination of five years of education or experience in the health care field, including financial management and staff supervision. Administrators must attend any training that the Department determines to be mandatory.

Residential Care Facility: Administrators in Level I, II, and III facilities must have sufficient education, experience, and training to meet residents' needs. Level IV administrators must either complete an approved training program or have a multi-level administrator's or residential facility administrator license. Level IV administrators must also complete 12 hours of continuing education per year in areas related to the care of the population served by the facility.

Staff Education/Training

Staff education and training are not specified for assisted living programs.

For Level IV residential care facilities, Maine requires that direct care staff complete a 50-hour standardized training course called Personal Support Specialist. If staff administer medications, they must complete a 40-hour standardized medication course and a complete refresher course biennially.

Entity Approving CE Program

Licensing staff determine the adequacy of continuing education at the time of survey.

Medicaid Policy and Reimbursement

The MaineCare state plan covers assisted living services. A Minimum Data Set-based case-mix, adjusted pricing system is used for residential care facility residents based on functional abilities and other data collected on residents.

COVID-19 Public Health Emergency

10-144 CMR Chapter 113: Regulations Governing the Licensing and Functioning of Assisted Housing Programs: Infection Prevention and Control, Major Substantive Rule

Purpose: This rule establishes minimum standards for infection prevention and control which apply to all types of assisted living programs, residential care facilities and private non-medical institutions, which are governed by 10-144 CMR Chapter 113 (Regulations Governing the Licensing and Functioning of Assisted Housing Program). Facilities governed under this regulation may be required to register as generators of biomedical waste under the provisions of the Department of Environmental Protection rule 06-096 CMR Ch. 900, Biomedical Waste Management Rules.

Citations

Department of Health and Human Services, Division of Licensing and Regulatory Services. Code of Maine Regulations, Title 10-144, Chapter 113: Regulations Governing the Licensing and Functioning of Assisted Housing Programs. [August 20, 2008]
<http://www.maine.gov/sos/cec/rules/10/ch113.htm>

Department of Health and Human Services, Division of Licensing and Certification. Regulations Governing the Licensing and Functioning of Assisted Housing Programs: Infection Prevention and Control. 10th Part of 10-144 C.M.R. Chapter 113.
<https://www.maine.gov/dhhs/sites/maine.gov.dhhs/files/inline-files/Chapter%20113%20Infection%20and%20Control.pdf>

Maine Department of Health and Human Services, Office of MaineCare Services. <https://www.maine.gov/dhhs/oms>

Maine Department of Health and Human Services, MaineCare Member Handbook. [December 2021]
<https://www.maine.gov/dhhs/sites/maine.gov.dhhs/files/inline-files/mainecare-member-handbook.pdf>