

Minnesota

Agency Department of Health, Health Regulation Division

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Web Site <https://www.health.state.mn.us/facilities/regulation/assistedliving/index.html>

Opening Statement The Minnesota Department of Health oversees and licenses ALF and ALFDC's.

Licensure Term Assisted Living Facility (ALF) and Assisted Living Facility with Dementia Care (ALFDC)

Definition "Assisted living facility" means a facility that provides sleeping accommodations and assisted living services to one or more adults. Assisted living facility includes assisted living facility with dementia care, and does not include:

- (1) emergency shelter, transitional housing, or any other residential units serving exclusively or primarily homeless individuals, as defined under section 116L.361;
- (2) a nursing home licensed under chapter 144A;
- (3) a hospital, certified boarding care, or supervised living facility licensed under sections 144.50 to 144.56;
- (4) a lodging establishment licensed under chapter 157 and Minnesota Rules, parts 9520.0500 to 9520.0670, or under chapter 245D, 245G, or 245I;
- (5) services and residential settings licensed under chapter 245A, including adult foster care and services and settings governed under the standards in chapter 245D;
- (6) a private home in which the residents are related by kinship, law, or affinity with the provider of services;
- (7) a duly organized condominium, cooperative, and common interest community, or owners' association of the condominium, cooperative, and common interest community where at least 80 percent of the units that comprise the condominium, cooperative, or common interest community are occupied by individuals who are the owners, members, or shareholders of the units;
- (8) a temporary family health care dwelling as defined in sections 394.307 and 462.3593;
- (9) a setting offering services conducted by and for the adherents

of any recognized church or religious denomination for its members exclusively through spiritual means or by prayer for healing;

(10) housing financed pursuant to sections 462A.37 and 462A.375, units financed with low-income housing tax credits pursuant to United States Code, title 26, section 42, and units financed by the Minnesota Housing Finance Agency that are intended to serve individuals with disabilities or individuals who are homeless, except for those developments that market or hold themselves out as assisted living facilities and provide assisted living services;

(11) rental housing developed under United States Code, title 42, section 1437, or United States Code, title 12, section 1701q;

(12) rental housing designated for occupancy by only elderly or elderly and disabled residents under United States Code, title 42, section 1437e, or rental housing for qualifying families under Code of Federal Regulations, title 24, section 983.56;

(13) rental housing funded under United States Code, title 42, chapter 89, or United States Code, title 42, section 8011;

(14) a covered setting as defined in section 325F.721, subdivision 1, paragraph (b); or

(15) any establishment that exclusively or primarily serves as a shelter or temporary shelter for victims of domestic or any other form of violence.

Exemption: A facility with a licensed resident capacity of six or fewer is exempt from rental licensing regulations imposed by any town, municipality, or county.

Regulatory and Legislative Update

There has been only one recent update that affects the definition section of this report. Specific to local rental requirements.

Move-in Requirements Including Required Disclosures/Notifications

All assisted living facilities must provide to prospective residents:

- (1) a disclosure of the categories of assisted living licenses available and the category of license held by the facility;
- (2) a written checklist listing all services permitted under the facility's license, identifying all services the facility offers to provide under the assisted living facility contract, and identifying all services allowed under the license that the facility does not provide; and
- (3) an oral explanation of the services offered under the contract.

Assisted living facilities must provide the uniform checklist disclosure of services to prospective residents before a contract is executed.

Facility Scope of Care

"Assisted living services" are defined in Minn. Stat. 144G.08, Subd.9 includes one or more of the following:

- (1) assisting with dressing, self-feeding, oral hygiene, hair care, grooming, toileting, and bathing;

- (2) providing standby assistance;
- (3) providing verbal or visual reminders to the resident to take regularly scheduled medication, which includes bringing the resident previously set up medication, medication in original containers, or liquid or food to accompany the medication;
- (4) providing verbal or visual reminders to the resident to perform regularly scheduled treatments and exercises;
- (5) preparing specialized diets ordered by a licensed health professional;
- (6) services of an advanced practice registered nurse, registered nurse, licensed practical nurse, physical therapist, respiratory therapist, occupational therapist, speech-language pathologist, dietitian or nutritionist, or social worker;
- (7) tasks delegated to unlicensed personnel by a registered nurse or assigned by a licensed health professional within the person's scope of practice;
- (8) medication management services;
- (9) hands-on assistance with transfers and mobility;
- (10) treatment and therapies;
- (11) assisting residents with eating when the residents have complicated eating problems as identified in the resident record or through an assessment such as difficulty swallowing, recurrent lung aspirations, or requiring the use of a tube or parenteral or intravenous instruments to be fed;
- (12) providing other complex or specialty health care services; and
- (13) supportive services in addition to the provision of at least one of the services listed in clauses (1) to (12).

Limitations of Services

A person or entity offering assisted living services may determine which services it will provide and may offer assisted living services to all or only some of the residents.

Termination means: (1) a facility-initiated termination of housing provided to the resident under the contract; or (2) a facility-initiated termination or nonrenewal of all assisted living services the resident receives from the facility under the contract.

Resident Assessment Requirements and Frequency

An assisted living facility shall conduct a nursing assessment by an RN of the physical and cognitive needs of the prospective resident and propose a temporary service plan prior to the date on which a prospective resident executes a contract with a facility or the date on which a prospective resident moves in, whichever is earlier. Under certain circumstances, the assessment may be conducted via telecommunication methods that align with practice standards that meet the resident's needs and reflect person-centered planning and care delivery. Resident reassessment and monitoring must be

conducted no more than 14 calendar days after initiation of services. Ongoing resident reassessment and monitoring must be conducted as needed based on changes in the needs of the resident and cannot exceed 90 calendar days from the last date of the assessment.

Medication Management

"Medication administration" means performing a set of tasks that includes the following:

- (1) checking the resident's medication record;
- (2) preparing the medication as necessary;
- (3) administering the medication to the resident;
- (4) documenting the administration or reason for not administering the medication; and
- (5) reporting to a registered nurse or appropriate licensed health professional any concerns about the medication, the resident, or the resident's refusal to take the medication.

Medication management includes: performing medication setup; administering medications; storing and securing medications; documenting medication activities; verifying and monitoring the effectiveness of systems to ensure safe handling and administration; coordinating refills; handling and implementing changes to prescriptions; communicating with the pharmacy about the resident's medications; and coordinating and communicating with the prescriber.

Staff Scheduling Requirements

Additional training requirements for assisted living facilities with dementia care include:

- (a) An assisted living facility with dementia care must provide residents with dementia-trained staff who have been instructed in the person-centered care approach. All direct care staff assigned to care for residents with dementia must be specially trained to work with residents with Alzheimer's disease and other dementias.
- (b) Only staff trained as specified in Minn. Stat. 144G.83, Subd. 2 and 3 shall be assigned to care for dementia residents.
- (c) Staffing levels must be sufficient to meet the scheduled and unscheduled needs of residents. Staffing levels during nighttime hours shall be based on the sleep patterns and needs of residents.
- (d) In an emergency situation when trained staff are not available to provide services, the facility may assign staff who have not completed the required training. The particular emergency situation must be documented and address:
 - (1) the nature of the emergency;
 - (2) how long the emergency lasted; and
 - (3) the names and positions of staff that provided coverage.

Staffing requirements include:

- (a) The licensee must ensure that staff who provide support to residents with dementia can demonstrate a basic understanding and ability to apply dementia training to the residents' emotional and unique health care needs using person-centered planning delivery. Direct care dementia-trained staff and other staff must be trained on the topics identified during the expedited rulemaking process. These requirements are in addition to the licensing requirements for training.
- (b) Failure to comply with paragraph (a) or subdivision 1 shall result in a fine under section 144G.31.

Persons providing or overseeing staff training must have experience and knowledge in the care of individuals with dementia, including:

- (1) two years of work experience related to Alzheimer's disease or other dementias, or in health care, gerontology, or another related field; and
- (2) completion of training equivalent to the requirements in this section and successfully passing a skills competency or knowledge test required by the commissioner.

Preservice and in-service training may include various methods of instruction, such as classroom style, web-based training, video, or one-to-one training. The licensee must have a method for determining and documenting each staff person's knowledge and understanding of the training provided. All training must be documented.

Assisted living facilities are required to have a person available 24 hours a day, seven days a week, who is responsible for responding to the requests of assisted living residents for assistance with health or safety needs. Secure dementia units must have an awake staff person who is physically present in the secure dementia care unit 24 hours per day, seven days per week. There are no mandated staffing ratios.

Administrator/Director Education and Training Requirements

A Licensed Assisted Living Director (LALD) is the person who administers, manages, supervises, or is in general administrative charge of an assisted living facility. There must be one designed LALD as the Director of Record of each licensed facility (MN State Rules 6400.7000).

LALD's must meet the minimum requirements:

- 1. Minimum education of a GED/ High school degree or higher;
- 2. Has read and understands parts 6400.7000 to 6400.7095 and the

Department of Health 144G Rules relating to the licensure of assisted living facilities;

3. Completed a MN approved ALD program;
4. Pass the MN State ALD exam;
5. Pass the NAB CORE & NAB RCAL Exam; and
6. Complete the required field experience hours ranging from 400-1000 hours.

If an individual holds a Health Services Executive (HSE) no additional ALD license is required.

An Assisted Living Director-in-Residence (ALDIR) is designed to allow individuals who are currently serving as Director but who do not qualify for an opportunity to apply for licensure to complete their education and experience while working in an assisted living setting. An ALDIR serving as a Director must be under supervision/mentorship of an LALD for up to a year as they complete their licensure requirements.

LALDs require 30 clock hours of education per every two-year period.

Additionally, an LALD of an assisted living facility with dementia care must complete and document acquiring at least ten hours of the required annual continuing educational requirements relate to the care of individuals with dementia. The training must include medical management of dementia, creating and maintaining supportive and therapeutic environments for residents with dementia, and transitioning and coordinating services for residents with dementia.

Direct Care Staff Education and Training

All staff providing and supervising direct services must complete an orientation to assisted living facility licensing requirements and regulations before providing assisted living services to residents. The orientation may be incorporated into the training required under Minn. Stat. 144G.63, Subd. 5. The orientation need only be completed once for each staff person and is not transferable to another facility.

The orientation must contain the following topics:

- (1) an overview of Minn. Stat.144G;
- (2) an introduction and review of the facility's policies and procedures related to the provision of assisted living services by the individual staff person;
- (3) handling of emergencies and use of emergency services;
- (4) compliance with and reporting of the maltreatment of

vulnerable adults under Minn. Stat. 626.557 to the Minnesota Adult Abuse Reporting Center (MAARC);

(5) the assisted living bill of rights and staff responsibilities related to ensuring the exercise and protection of those rights;

(6) the principles of person-centered planning and service delivery and how they apply to direct support services provided by the staff person;

(7) handling of residents' complaints, reporting of complaints, and where to report complaints, including information on the Office of Health Facility Complaints;

(8) consumer advocacy services of the Office of Ombudsman for Long-Term Care, Office of Ombudsman for Mental Health and Developmental Disabilities, Managed Care Ombudsman at the Department of Human Services, county-managed care advocates, or other relevant advocacy services; and

(9) a review of the types of assisted living services the employee will be providing and the facility's category of licensure.

All staff that perform direct services must complete at least eight hours of annual training for each 12 months of employment. The training may be obtained from the facility or another source and must include topics relevant to the provision of assisted living services.

Quality Requirements

The commissioner shall establish a Resident Quality of Care and Outcomes Improvement Task Force to examine and make recommendations, on an ongoing basis, on how to apply proven safety and quality improvement practices and infrastructure to settings and providers that provide long-term services and supports.

Infection Control Requirements

All assisted living facilities must establish and maintain an infection control program that complies with accepted health care, medical, and nursing standards for infection control. The facility's infection control program must be consistent with current guidelines from the Centers for Disease Control and Prevention (CDC) for infection prevention and control in long-term care facilities and, as applicable, for infection prevention and control in assisted living facilities. The facility must maintain written evidence of compliance.

The facility must establish and maintain a comprehensive tuberculosis infection control program according to the most current tuberculosis infection control guidelines issued by the CDC's Division of Tuberculosis Elimination, as published in the CDC's Morbidity and Mortality Weekly Report. The program must include a tuberculosis infection control plan that covers all paid and unpaid employees, contractors, students, and regularly scheduled

volunteers. The commissioner shall provide technical assistance regarding implementation of the guidelines. The facility must maintain written evidence of compliance.

A facility must follow current state requirements for prevention, control, and reporting of communicable diseases as defined in Minnesota Rules, parts 4605.7040, 4605.7044, 4605.7050, 4605.7075, 4605.7080, and 4605.7090.

Emergency Preparedness

The facility must meet the following requirements:

have a written emergency disaster plan that contains a plan for evacuation, addresses elements of sheltering in place, identifies temporary relocation sites, and details staff assignments in the event of a disaster or an emergency;

post an emergency disaster plan prominently;

provide building emergency exit diagrams to all residents;

post emergency exit diagrams on each floor; and

have a written policy and procedure regarding missing residents.

The facility must provide emergency and disaster training to all staff during the initial orientation and annually thereafter and must make emergency and disaster training annually available to all residents. Staff who have not received emergency and disaster training are allowed to work only when trained staff are also working on site.

The facility must meet any additional requirements adopted in rule.

Medicaid Policy and Reimbursement

For new assisted living facilities that did not operate as registered housing with services establishments prior to August 1, 2021, home and community-based services under section 256B.49 are not available when the new facility setting is adjoined to, or on the same property as, an institution as defined in Code of Federal Regulations, title 42, section 441.301(c).

Life Safety Requirements

Assisted living facilities must comply with the Minnesota State Building code and the Minnesota State Fire Code and applicable local building and zoning codes and requirements for the type of structure utilized for the housing component of assisted living. The Minnesota State Fire Code is comprised of the International Fire Code plus Minnesota amendments. All assisted living facilities having six or more residents must also comply with the National

Citations

Fire Protection Association.

Minnesota Statutes. (2023) Chapter 144G: Assisted Living.
<https://www.revisor.mn.gov/statutes/?id=144G>

Minnesota Statutes. (2023) Chapter 325F.72: Disclosure of Special Care Status. <https://www.revisor.mn.gov/statutes/?id=325F.72>

Minnesota Session Laws. (2019) Regular Session. Chapter 60--H.F. No. 90.
<https://www.revisor.mn.gov/laws/2019/0/Session+Law/Chapter/60/>

Minnesota Department of Human Services. (n.d.) Community-Based Services Manual (CBSM).
https://www.dhs.state.mn.us/main/idcplg?IdcService=GET_DYNAMIC_CONVERSION&RevisionSelectionMethod=LatestReleased&dDocName=ID_000402