

# Montana

---

		<b>Phone</b>
<b>Agency</b>	Department of Public Health and Human Services, Quality Assurance Division	(406) 444-2676
<b>Contact</b>	Leigh Ann Holmes	(406) 444-7770
<b>E-mail</b>	lholmes@mt.gov	
<b>Web Site</b>	<a href="http://dphhs.mt.gov/qad/Licensure.aspx">http://dphhs.mt.gov/qad/Licensure.aspx</a>	

---

**Licensure Term** Assisted Living Facilities

**Opening Statement** The Montana Department of Public Health and Human Services, Quality Assurance Division, licenses assisted living facilities as a setting for frail, elderly, or disabled persons. This setting provides supportive health and service coordination to maintain the resident's independence, individuality, privacy, and dignity.

**Legislative and Regulatory Update** In 2019, Montana passed HB566, which requires background checks for assisted living employees, outlines circumstances under which employment is prohibited, and allows the Department of Public Health and Human Services to issue licensure actions against facilities failing to conduct background checks. Conforming regulations will need to be written.

In 2017, Montana passed SB0272, which created a new licensure category for assisted living facilities for those with dementia or other mental disorders who might be a harm to themselves or others. The legislation specifies when a person is eligible for admission to a Category D assisted living facility. The Department of Public Health and Human Services is instructed to adopt standards for licensing this new category. As part of the process to promulgate new rules, the state may opt to also update existing assisted living regulations.

Montana's assisted living regulations were updated in May 2004.

**Definition** An assisted living facility is a congregate, residential setting that provides or coordinates personal care; 24-hour supervision and assistance, both scheduled and unscheduled; and activities and health-related services. Three categories of facilities provide different levels of care, based on the needs of residents. Assisted living facilities are licensed as Category A, with optional Category B and/or Category C level of care endorsements. The regulations have not yet been updated to include Category D.

**Disclosure Items**

A written resident agreement must be entered into between facilities and each resident and must include specified information. Among other things, the agreement must include the criteria for transfer or discharge, statement explaining the availability of skilled nursing or other professional services from a third party provider, charges, and a statement of resident responsibilities. Prior to admission, the resident must be provided a copy of the Montana Long-Term Care Residents' Bill of Rights. For disclosure items required of Category C endorsed facilities, see "Unit and Staff Requirements for Units Serving Persons with Dementia" below.

**Facility Scope of Care**

An assisted living facility must, at a minimum, provide or make provisions for:

- (1) Personal services, such as laundry, housekeeping, food service, and local transportation;
- (2) Assistance with activities of daily living (ADLs), as specified in the facility admission agreement and that do not require the use of a licensed health care professional or a licensed practical nurse;
- (3) Recreational activities;
- (4) Assistance with self-medication;
- (5) 24-hour on-site supervision by staff; and
- (6) Assistance in arranging health-related services, such as medical appointments and appointments related to hearing aids, glasses, or dentures.

An assisted living facility may provide, make provisions for, or allow a resident to obtain third-party provider services for:

- (1) Administration of medications consistent with applicable laws and regulations; and
- (2) Skilled nursing care or other skilled services related to temporary, short-term acute illnesses, which may not exceed 30 consecutive days for one episode or more than a total of 120 days in one year.

A Category B endorsed facility may provide skilled nursing care or other skilled services to five or fewer residents consistent with move-in and move-out criteria specified in law, or provide care to meet

the needs of residents requiring total assistance with four or more ADLs.

A Category C endorsed facility provides care to meet the needs of individuals with severe cognitive impairment that renders them incapable of expressing needs or making basic care decisions.

**Third Party Scope of Care**

Third-party providers are permitted to provide skilled nursing care, hospice, personal care, etc., in all assisted living facilities. A resident may purchase third party services for health care services. The resident or the resident's legal representative assumes all responsibility for arranging the resident's care through appropriate parties.

**Admission and Retention Policy**

An individual is permitted to move into and remain in a Category A facility when:

- (1) The resident does not require physical or chemical restraint or confinement in locked quarters;
- (2) The individual does not have a stage III or stage IV pressure ulcer;
- (3) The individual does not have a gastrostomy or jejunostomy tube;
- (4) The individual does not require skilled nursing care or other skilled services on a continued basis except for the administration of medications;
- (5) The individual is not a danger to self or others; and
- (6) The individual is able to accomplish ADLs with supervision and assistance.

The individual may not be consistently and totally dependent in four or more ADLs as a result of a cognitive or physical impairment nor may the individual have severe cognitive impairment that prevents expression of needs or the ability to make basic care decisions. An individual may move into and remain in a Category B endorsed facility when:

- (1) The individual requires skilled nursing care or other services for more than 30 days for an incident and for more than 120 days a year, that may be provided or arranged for by the facility or the resident, as provided for in the facility agreement;
- (2) The individual is consistently and totally dependent in more than

four ADLs;

(3) The individual does not require physical or chemical restraint or confinement in locked quarters;

(4) The individual is not a danger to self or others;

(5) The individual has a practitioner's written order for moving in and written orders for care; and

(6) The individual has a signed health care assessment that is renewed quarterly by a licensed health care professional who has visited the facility.

An individual may move into and remain in a Category C endorsed facility when:

(1) The individual has a severe cognitive impairment that renders the individual incapable of expressing needs or of making basic care decisions;

(2) The resident may be at risk for leaving the facility without regard for personal safety;

(3) Except for the possibility of leaving the facility without regard for personal safety, the resident is not a danger to self or others;

(4) The resident does not require physical or chemical restraint or confinement in locked quarters;

(5) The individual has a practitioner's written order for moving in and written orders for care; and

(6) The individual has a signed health care assessment that is renewed quarterly by a licensed health care professional who has visited the facility.

The facility must transfer a resident when: the resident's needs exceed the level of ADL services provided by the facility; the resident exhibits behavior or actions that repeatedly and substantially interfere with the rights and safety of others; the resident is not able to respond to verbal instruction; the resident has a medical condition that is complex and treatment cannot be appropriately developed in the ALF; the resident receives treatment elsewhere and a re-evaluation determines the resident's needs

exceed the facility's level of service; or the resident failed to pay charges after reasonable and appropriate notice.

**Resident Assessment**

A resident assessment is required prior to, or on, the move-in date to develop a resident service plan. The Department has an optional form online for the assessment, and includes topics specified in the regulations, such as cognitive patterns, ADL functional performance, and mood and behavior patterns. The service plan will be reviewed and updated within the first 60 days of living in the facility to ensure the resident's needs are being addressed.

**Medication Management**

All residents in a Category A facility must self-administer their medication. Those residents in Category B endorsed facilities who are capable of and who wish to self-administer medications shall be encouraged to do so. Any direct care staff member who is capable of reading medication labels may provide necessary assistance to a resident in taking their medication. Category B or C residents who are unable to self-administer their medications must have the medications administered to them by a licensed health care professional or by an individual delegated the task under the Montana Nurse Practice Act. Medication management through third party services is allowed in all facility categories.

**Square Feet Requirements**

Private resident units must be a minimum of 100 square feet and shared units must provide a minimum of 80 square feet per resident, exclusive of toilet rooms, closets, lockers, wardrobes, alcoves, or vestibules.

**Residents Allowed Per Room**

A maximum of four residents is allowed per resident unit in existing facilities, and a maximum of two residents is allowed per resident unit in new construction and facilities serving residents with severe cognitive impairment.

**Bathroom Requirements**

There must be:

(1) At least one toilet for every four residents;

(2) One bathing facility for every 12 residents; and

(3) A toilet and sink in each toilet room. In addition, each resident must have access to a toilet room without entering another resident's room or the kitchen, dining, or living areas. All bathroom doors must open outward or be pocket doors to prevent entrapment. If the bathroom is handicap accessible, the outward door requirement is waived. To meet handicap requirements, assisted living facilities must have a 5 foot diameter circle-space in the room in which none of the fixtures are touched.

## **Life Safety**

Montana has adopted National Fire Protection Association standards. In 2005, Montana passed a statewide Clean Air Act prohibiting smoking in all public facilities. Smoking is permitted in designated areas only, with requirements to provide protection for employees who are nonsmokers. Facilities with 16 or more residents and all Category B and C endorsed facilities are required to have automatic fire sprinklers. Category A facilities with 1-15 residents are not required to have automatic fire sprinklers. All assisted living facilities must have smoke detectors in all resident rooms, bedroom hallways, living rooms, dining rooms, and other open common spaces or as required by the fire authority.

## **Unit and Staffing Requirements for Serving Persons with Dementia**

A Category C endorsed facility for severely cognitively impaired residents requires additional administrator and staff training and specialized accommodations. Each facility providing Category C services must make available, in writing, to the prospective resident's guardian or family member, the following:

- (1) The overall philosophy and mission of the facility regarding meeting the needs of residents with severe cognitive impairment and the form of care or treatment;
- (2) The process and criteria for move-in, transfer, and discharge;
- (3) The process used for resident assessment;
- (4) The process used to establish and implement a health care plan, including how the health care plan will be updated in response to changes in the resident's condition;
- (5) Staff training and continuing education practices;
- (6) The physical environment and design features appropriate to support the functioning of cognitively impaired residents;
- (7) The frequency and type of resident activities;
- (8) The level of involvement expected of families and the availability of support programs; and
- (9) Any additional costs of care or fees.

Direct care staff must comply with training requirements for Category A and B endorsement and must receive additional documented training in:

- (1) The facility or unit's philosophy and approaches to providing care and supervision for persons with severe cognitive impairment;
- (2) The skills necessary to care for, intervene, and direct residents who are unable to perform ADLs;
- (3) Techniques for minimizing challenging behavior, including wandering, hallucinations, illusions and delusions, and impairment of senses;
- (4) Therapeutic programming to support the highest possible level of resident function including: large motor activity; small motor activity; appropriate level cognitive tasks; and social/emotional stimulation;
- (5) Promoting residents' dignity, independence, individuality, privacy, and choice;
- (6) Identifying and alleviating safety risks to residents;
- (7) Identifying common side effects of and untoward reactions to medications; and
- (8) Techniques for dealing with bowel and bladder aberrant behaviors.

If a secured distinct part or locked unit within a category C assisted living facility is designated for the exclusive use of residents with severe cognitive impairment, the facility must:

- (1) Staff the unit with direct care staff at all times there are residents in the unit;
- (2) Provide a separate dining area, at a ratio of 30 square feet per resident on the unit; and
- (3) Provide a common day or activities area, at a ratio of 30 square feet per resident on the unit. The dining area or day rooms, sun porches and common areas accessible to all residents, may serve this purpose.

### **Staffing Requirements**

An administrator must be employed by the facility and is responsible for operations of the assisted living facility at all times. At least one staff member must be present on a 24-hour basis.

There are no staffing ratios, though adequate staff must be present to meet the needs of the residents, respond in emergency situations, and provide all related services. Both a Category B and a Category C endorsed facility must employ or contract with a registered nurse to provide or supervise nursing services. Staff in Category C endorsed facilities must be dressed and awake during the night to meet resident needs.

**Administrator  
Education/Training**

An administrator must meet one of the following minimum requirements: (1) hold a current Montana nursing home administrator license or have proof of holding a current and valid nursing home administrator license from another state; (2) have successfully completed all of the self-study modules of "The Management Library for Administrators and Executive Directors," a component of the assisted living training system published by the Assisted Living University (ALU); or (3) or be enrolled in the self-study course, referenced above, with an anticipated successful completion within six months.

The administrator of a Category B endorsed facility must have successfully completed all of the self-study modules of "The Management Library for Administrators and Executive Directors," or must hold a current Montana nursing home administrator license or have proof of holding a current and valid nursing home administrator license from another state, and must have one or more years of experience working in the field of geriatrics or caring for individuals with disabilities in a licensed facility.

The administrator of a Category C endorsed facility must have three or more years of experience working in the field of geriatrics or caring for residents with disabilities in a licensed facility; or a documented combination of education and training that is equivalent as determined by the department (described above) and must hold a current Montana nursing home administrator license or have proof of holding a current and valid nursing home administrator license from another state, or have successfully completed all of the self-study modules of "The Management Library for Administrators and Executive Directors."

Administrators must complete at least 16 hours of continuing education per year. For administrators of Category C endorsed facilities, at least eight of the 16 required hours must pertain to caring for people with severe cognitive impairment.

**Staff Education/Training**

All staff must receive orientation and training relevant to the individual's responsibilities and covering specific topics.



Additionally, direct care staff must be trained to perform the services established in each resident service plan. Direct care staff must be trained in the use of the abdominal thrust maneuver and basic first aid. If the facility offers CPR, at least one person per shift must be certified in CPR. Additional training is required for Category B and C staff.

**Entity Approving  
CE Program**

None specified.

**Medicaid Policy and  
Reimbursement**

A Medicaid home and community-based services 1915(c) waiver covers services in assisted living facilities. There are a limited number of waiver slots.

**Citations**

Administrative Rules of Montana. Title 37, Chapter 106, Subchapter 28: Assisted Living Facilities [2004]  
<http://www.mtrules.org/gateway/Subchapterhome.asp?scn=37.106.28>

Department of Public Health and Human Services, Senior and Long Term Care Division. Community Services for Seniors and People with Disabilities.  
<http://dphhs.mt.gov/hcbs>

Montana Department of Public Health and Human Services, Quality Assurance Division  
(406) 444-2676