

Nebraska

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Licensure Term Assisted-Living Facilities

Opening Statement Assisted living facilities (ALFs) are licensed by the Nebraska Licensure Unit in the Department of Health and Human Services (DHHS), Division of Public Health.

Legislative and Regulatory Update There are no recent regulatory changes affecting assisted living in Nebraska.

During the 2019 legislative session, the Nebraska legislature passed LB 409, which provides that for new construction of assisted living facilities, the legislature adopts the 2018 Guidelines for Design and Construction of Residential Health, Care, and Support Facilities published by the Facility Guidelines Institute, with some limitations on the definition of new construction within the guidelines. LB 195 amends references to the state fire code, which in turn affect assisted living.

The legislature passed LB 439 effective July 20, 2018, which changes the definition of complex nursing intervention and allows ALF to choose whether to allow a nurse to provide brief complex nursing care on a "part-time or intermittent basis." If the ALF opts to provide this care, the statute defines part time and intermittent. Previously the role of an assisted living nurse was limited to oversight of medication aides and resident assessment for admission and continued stay. DHHS will issue guidance related to the statutory change.

Definition An ALF means a residential setting that provides assisted-living services for remuneration to four or more persons who reside in such residential setting and are not related to the owner of the residential setting. The definition of ALF does not include a home, apartment, or facility where casual care is provided at irregular intervals, or where a competent person residing in such home, apartment or facility provides for or contracts for his or her own

personal or professional services if no more than 50% of persons residing in such home, apartment, or facility receive such services.

Disclosure Items

An ALF must provide written information about its practices to each applicant or his or her authorized representative including:

- (1) A description of the services provided and the staff available to provide the services;
- (2) The charges for services provided;
- (3) Whether the ALF accepts residents who are eligible for Medicaid waiver coverage and, if applicable, policies or limitations regarding access to Medicaid coverage;
- (4) Criteria for admission to and continued residence in the ALF and the process for addressing issues that may prevent admission to or continued residence in the ALF;
- (5) The process for developing and updating the resident services agreement;
- (6) For facilities with Special Care Units for dementia, the additional services provided to meet the special needs of persons with dementia; and
- (7) Whether or not the ALF provides part-time or intermittent complex nursing interventions.

ALFs must also provide residents their rights in writing upon admission and for the duration of their stay.

Facility Scope of Care

Assisted living services means services that promote the health and safety of persons in a residential setting, including housing, three meals each day, access to staff for twenty-four hours each day, noncomplex nursing interventions, and support with activities of daily living (ADLs), and includes resident assessment for admission and continued stay. The facility may provide, but are not limited to:

- (1) ADLs;
- (2) Health maintenance activities (i.e., non-complex nursing interventions, which means nurse assessments and interventions that can safely be performed according to exact directions, that do not require alteration of the standard procedure, and for which the results and resident responses are predictable);

- (3) Personal care (i.e., bathing, hair care, nail care, shaving, dressing, oral care, and similar activities);
- (4) Transportation;
- (5) Laundry;
- (6) Housekeeping;
- (7) Financial assistance/management;
- (8) Behavioral management;
- (9) Case management;
- (10) Shopping;
- (11) Beauty/barber services; and
- (12) Spiritual services.

An ALF may provide complex nursing interventions on a part-time or intermittent basis. Complex nursing interventions means interventions which require nursing judgment to safely alter standard procedures in accordance with the needs of the resident, which require nursing judgment to determine how to proceed from one step to the next, or which require a multidimensional application of the nursing process. Part-time or intermittent basis means not to exceed 10 hours each week for each resident for a period of time with a predictable end within 21 days.

Third Party Scope of Care

If residents assume responsibility, they may arrange for care through a licensed home health or hospice agency or appropriate private duty personnel.

Admission and Retention Policy

To be eligible for admission to an ALF, a person must be in need of or wish to have available shelter, food, assistance with or provision of personal care, ADLs, or health maintenance activities or supervision due to age, illness, or physical disability. The administrator has the discretion regarding admission or retention of residents subject to the Assisted-Living Facility Act and rules and regulations adopted and promulgated under the act.

An ALF shall determine if an applicant or resident is admitted or retained based on the care needs of the applicant or resident, the

ALF's ability to meet those care needs, and the degree to which the admission or retention poses a danger to others.

The facility is required to provide a 30-day advance written notice except in situations where the transfer or discharge is necessary to protect the health and safety of the resident, other residents, or staff.

Resident Assessment

The ALF must evaluate each resident and must have a written service agreement negotiated with the resident and authorized representative, if applicable, to determine the services to be provided to meet the needs identified in the evaluation. Resident services agreement means an agreement entered into by the resident or the resident's authorized representative and the assisted-living facility that stipulates the responsibilities of the assisted-living facility and the resident, identifies service needs of the resident, outlines the services that will be provided to the resident by the assisted-living facility and from other sources, and specifies the cost of services provided by the assisted-living facility. There is no required resident assessment form.

The resident service agreement must be reviewed and updated as the resident's needs change.

Medication Management

When a facility is responsible for the administration or provision of medications, it must be accomplished by the following methods: 1) self-administration of medications by the resident, with or without supervision, when assessment determines the resident is capable of doing so; 2) by licensed health care professionals for whom medication administration is included in the scope of practice and in accordance with prevailing professional standards; or 3) by persons other than a licensed health care professional if the medication aides who provide medications are trained, have demonstrated minimum competency standards, and are appropriately directed and monitored.

Every person seeking admission to or residing in an ALF must, upon admission and annually thereafter, provide the facility with a list of drugs, devices, biologicals, and supplements being taken or used by the person, including dosage, instructions for use, and reported use.

The ALF must provide for a registered nurse (RN) to review medication administration policies and procedures and document that review at least annually. An RN also is required to provide or oversee the training of medication aides.

Square Feet Requirements In existing facilities, private resident units must be a minimum of 80 square feet and double-occupancy units must provide a minimum of 60 square feet per resident. In new facilities, private resident units must be a minimum of 100 square feet and double-occupancy units must be a minimum of 80 square feet per resident.

Residents Allowed Per Room An ALF must provide resident bedrooms that allow for sleeping, afford privacy, provide access to furniture and belongings, and accommodate the care and treatment provided to the resident. With few exceptions, resident bedrooms must be a single room located within an apartment, dwelling, or dormitory-like structure. In existing facilities, a maximum of four residents is allowed per resident unit. In new facilities, a maximum of two residents is allowed per resident unit.

Bathroom Requirements An ALF must provide a bathing room consisting of a tub and/or shower adjacent to each bedroom or provide a central bathing room. Tubs and showers, regardless of location, must be equipped with hand grips or other assistive devices as needed or desired by the bathing resident. In existing facilities, at least one bathing facility must be provided for every 16 residents. In new facilities, one bathing facility must be provided for every eight residents. The facility must provide toilet rooms with handwashing sinks for resident use. Facilities must have a toilet and sink adjoining each bedroom or shared toilet rooms. In existing facilities, one toilet fixture per six licensed beds is required; in new facilities, one toilet fixture per four licensed beds is required; and in new construction, one toilet room adjoining each resident's bedroom is required.

Life Safety All facilities must comply with applicable Nebraska state fire codes and standards to provide a safe environment. Life safety codes for Assisted-Living Facilities are based on National Fire Protection Association standards. Facilities are classified as either Residential Board and Care Occupancy or Limited Care Facility (Health Care Occupancy). Based on the evacuation capability of the residents, the Nebraska State Fire Marshal inspects and determines applicable requirements for fire drills, fire alarm systems, fire sprinkler systems, etc.

Unit and Staffing Requirements for Serving Persons with Dementia Alzheimer's special care unit means an ALF licensed by the Department of Health and Human Services that secures, segregates, or provides a special program or special unit for residents with a diagnosis of probable Alzheimer's disease, dementia, or a related disorder and which advertises, markets, or otherwise promotes the facility as providing specialized Alzheimer's disease, dementia, or related disorder care services.

Facilities serving special populations (i.e., persons with Alzheimer's Disease, dementia, or related disorders) must provide care and services in accordance with the resident service agreement and the stated mission and philosophy of the facility; inform the resident or legal representative in writing of the facility's criteria for admission, discharge, transfer, resident conduct, and responsibilities; maintain a sufficient number of direct care staff with the required training and skills necessary to meet the resident's requirements; and provide a physical environment that conforms to and accommodates the special needs.

The facility or unit must maintain a sufficient number of direct care staff with the required training and skills necessary to meet the resident population's requirements. The administrator and direct care staff must be trained in the facility or unit's philosophy and approaches to providing care and supervision for persons with Alzheimer's disease; the Alzheimer's disease process; and the skills necessary to care for and intervene and direct residents who are unable to perform ADLs, personal care, or health maintenance, and who may exemplify behavior problems or wandering tendencies. Any facility that has an Alzheimer's Special Care Unit must provide staff at least four hours annually of continuing education pertaining to the form of care or treatment set forth in the philosophy, mission statement, and processes used for assessment and care planning.

Staffing Requirements

The facility must have an administrator who is responsible for the overall operation of the facility. The administrator is responsible for overall planning, organizing, and directing the day-to-day operation of the facility. The administrator must report all matters related to the maintenance, operation, and management of the facility and be directly responsible to the licensee of the facility. The administrator is responsible for maintaining staff with appropriate training and skills and sufficient in number to meet resident needs as defined in the resident service agreements. There are no staffing ratios. The facility must maintain a sufficient number of staff with the required training and skills necessary to meet the resident population's requirements for assistance or provision of personal care, ADLs, health maintenance activities, supervision and other supportive services, as defined in Resident Service Agreements. The facility must provide for a RN to review medication administration policies and procedures and to provide or oversee training of medication aides at the facility.

Administrator Education/Training

Administrators must be 21 years of age or older. Administrators employed for the first time after January 1, 2005, must have completed initial, department-approved training that is at least 30

hours and includes six specific topic areas, including but not limited to residential care and services, social services, financial management, administration, gerontology, and rules and regulations. Hospital or current licensed nursing home administrators are exempt from this training requirement.

A facility administrator must complete 12 hours of ongoing training annually in areas related to care and facility management of the population served. Ongoing training does not apply to administrators who are hospital or current licensed nursing home administrators.

Staff Education/Training

Direct-care staff must complete an initial orientation within two weeks of employment on specified topics, including but not limited to resident's rights, resident service agreement, and the facility's emergency procedures. All staff must complete at least 12 hours of continuing education per year on topics appropriate to the employee's job duties, including meeting the physical and mental special care needs of residents in the facility.

An RN must provide or oversee specific areas of medication aide training on specified topics.

**Entity Approving
CE Program**

None specified.

**Medicaid Policy and
Reimbursement**

Medicaid covers assisted living services through two 1915(c) waiver programs, one for adults with physical disabilities and persons over age 65 and one for persons with traumatic brain injury.

Citations

Nebraska Department of Health and Human Services. DHHS Regulations. Title 175 Health Care Facilities And Services Licensure. Chapter 4, Assisted Living Facilities.http://www.sos.ne.gov/rules-and-regs/regsearch/Rules/Health_and_Human_Services_System/Title-175/Chapter-04.pdf

Nebraska Department of Health and Human Services. Licensing. Facilities, Services and Establishments. Assisted Living Facilities. <http://dhhs.ne.gov/licensure/Pages/Assisted-Living-Facilities.aspx>

Nebraska Department of Health and Human Services. Division of Medicaid and Long-Term Care. Medicaid Home and Community-Based Programs. <http://dhhs.ne.gov/Pages/Medicaid-Home-and-Community-Based-Programs.aspx>

Nebraska Legislature LB 439, "Change Licensure and Regulation

Provisions for Assisted-Living Facilities.”

<https://nebraskalegislature.gov/FloorDocs/105/PDF/AM/ER111.pdf>

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