

Oregon

Agency Department of Human Services, Office of Safety, Oversight and Quality, Aging and People with Disabilities Program

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Opening Statement

The Oregon Department of Human Services (ODHS) licenses two types of Community-Based Care Settings—Assisted Living Facilities (ALFs) and Residential Care Facilities (RCFs). General licensing requirements are the same for both types of facilities. The major distinction between the two settings pertains to the building requirements. Assisted Living Facilities must provide a private apartment, private bath, and kitchenette, whereas Residential Care Facilities may have shared rooms and shared baths, or private apartments. The following requirements apply to both types of facilities unless otherwise noted.

ODHS also endorses Memory Care Communities (MCC). Such communities must meet the licensing requirements for the applicable licensed setting (i.e., residential care, assisted living, or nursing facility) and meet additional requirements specified in the MCC rules. Any facility that offers or provides care for residents with dementia in a memory care community must obtain an “endorsement” on its facility license. The rules emphasize person-directed care, resident protection, staff training specific to dementia care, and physical plant and environmental requirements. Residents moving into these specialized, secured settings must have a diagnosis of dementia.

Licensure Term

Assisted Living Facility and Residential Care Facility

Definition

Assisted Living Facility: A building, complex, or distinct part thereof, consisting of fully self-contained, individual living units where six or more seniors and adult individuals with disabilities may reside in homelike surroundings. The facility offers and coordinates a range of supportive services available on a 24-hour basis to meet the activities of daily living (ADLs), health, and social needs of the

residents. A person-centered program approach is used to promote resident self-direction and participation in decisions that emphasize choice, dignity, privacy, individuality, and independence.

Residential Care Facility: A building, complex, or distinct part thereof, consisting of shared or individual living units in a homelike surrounding, where six or more seniors and adult individuals with disabilities may reside. The facility offers and coordinates a range of supportive services available on a 24-hour basis to meet the daily health and social needs of the residents as described in administrative rules. A person-centered program approach is used to promote resident self-direction and participation in decisions that emphasize choice, dignity, individuality, and independence.

Regulatory and Legislative Update

In the 2023 legislative session SB 99 was passed which created a bill of rights for LTC residents in Oregon who identify as LGBTQIA2S+ or live with HIV. Training is also mandatory for all LTC administrators, staff and contractors providing care on this bill of rights.

Move-in Requirements Including Required Disclosures/Notifications

Oregon requires four specific individual documents to be provided prior to move-in.

1. Uniform Disclosure Statement: This state specific document (SDS9098a for ALF and SDS9098mc for Memory Care) highlights details around required services, other services and amenities offered by the community, deposits and fees, medication administration, staffing, staff training, and discharge transfer information.
2. Consumer Summary Statement: This document must be submitted to ODHS and is posted on the ODHS website for consumer reference. This document must contain community information around the following key points.
 - Summary of the care and services provided.
 - Summary explanation of the types of care and services not provided.
 - If a resident's needs exceed the care and services provided, the provider may ask the resident to move out.
 - If a resident leaves a community to receive acute medical, psychiatric, nursing facility or other care, the provider must conduct an evaluation before the resident can return to the community.
 - Residents have the right to ask for an administrative hearing if they disagree with the facilities decision to issue the resident an involuntary move out notice.
 - How the facility arranges for or coordinates hospice care.
3. Residency agreement that incorporates all the topics outlined in OAR 411-054-0026(2), including terms of occupancy, payment provisions, policy for increases, additions or changes to the rate

structure, scope of resident services available, criteria for move-out, and community's staffing plans.

4. Resident Rights that incorporate all items as outlined in OAR 411-054-0027, including the right to be free from neglect/abuse, to be free from discrimination, be given informed choice and opportunity to select or refuse services and accept responsibility for the consequences, to participate in the development of the service plans, and prompt access to review of records.

5. LGBTQIA2S+ PROTECTIONS. A facility shall provide a copy of the LGBTQIA2S+ Protections as described in OAR 411-054-0027(2), and the facility's LGBTQIA2S+ Nondiscrimination Notice, as described in OAR 411-054-0025(7)(i).

Facility Scope of Care

Facilities may care for individuals with various levels of care needs. Facilities must provide a minimum scope of services to include: three nutritious, palatable meals with snacks available 24/7; personal and other laundry services; daily social and recreational activities; resources (e.g., equipment, supplies) for activity needs; assistance with ADLs 24 hours per day; medication administration; and household services.

Limitations of Services

Facilities may care for individuals with various levels of care needs. Residents may be asked to move out in certain situations. Upon moving in, the facility must provide every resident with disclosure documents clearly outlining what services are not available (more detail in following section). Thirty-day notification must be provided in most situations but there is a provision for less than 30-day notification when there are urgent medical and psychiatric needs. Facilities must demonstrate attempts to resolve the reason for the move out and the notice must be approved by the Department prior to issuance. The following are specific reasons that a facility could request that a resident seek other living arrangements:

- (1) The resident's needs exceed the level of ADL services the facility provides as specified in the facility's disclosure information;
- (2) The resident engages in behavior or actions that repeatedly and substantially interferes with the rights, health, or safety of residents or others;
- (3) The resident has a medical or nursing condition that is complex, unstable, or unpredictable and exceeds the level of health services the facility provides as specified in the facility's disclosure information;
- (4) The facility is unable to accomplish resident evacuation in accordance with OAR 411-054-0090 (Fire and Life Safety);
- (5) The resident exhibits behavior that poses a danger to self or

others;

(6) The resident engages in illegal drug use or commits a criminal act that causes potential harm to the resident or others; or

(7) There is non-payment of charges.

Resident Assessment Requirements and Frequency

A resident evaluation must be performed before the resident moves into the facility, at 30 days after move-in, at 90 days after move-in and at least quarterly thereafter. Resident evaluations must also be updated with any significant change in condition. Providers are not required to use a Department-designated form but must address a common set of evaluation elements including, but not limited to, specified resident routines and preferences; physical health status; mental health issues; cognition; communication and sensory abilities; ADLs; independent ADLs; pain; skin condition; nutrition habits, fluid preferences, and weight if indicated; treatments including type, frequency and level of assistance needed; indicators of nursing needs, including potential for delegated nursing tasks; and a review of risk indicators. For those providers offering Medicaid services, a standardized assessment form is used by state caseworkers to determine Medicaid eligibility and service level payment.

Medication Management

Psychoactive medications may be used only pursuant to a prescription that specifies the circumstances, dosage, and duration of use. Facility administered psychoactive medications may be used only when required to treat a resident's medical symptoms or to maximize a resident's functioning. The facility must not request psychoactive medication to treat a resident's behavioral symptoms without a consultation from a physician, nurse practitioner, registered nurse, or mental health professional. Prior to administering any psychoactive medications to treat a resident's behavior, all direct care staff administering medications for the resident must know: the specific reasons for the use of the psychoactive medication for that resident; the common side effects of the medications; and when to contact a health professional regarding side effects.

Staff Scheduling Requirements

Facilities must consistently have qualified awake direct care staff, sufficient in number to meet the 24-hour scheduled and unscheduled needs of each resident. Direct care staff provide services for residents that include assistance with activities of daily living, medication administration, resident-focused activities, supervision, and support.

All Memory Care Community staff must be trained in required topics addressing the needs of people with dementia prior to

providing care and services to residents and within 30 days of hire. They also must receive six hours of dementia-specific in-service training annually (in addition to licensing requirements or annual training). For an administrator of a Memory Care Community, 10 of the 20 hours of required annual continuing education must be related to the care of individuals with dementia. Dementia care training must reflect current standards for dementia care and be informed by the best evidence in the care and treatment of dementia.

Facilities must employ a full-time, licensed administrator who must be on site for at least 40 hours per week. Facilities must provide an Oregon licensed nurse who is regularly scheduled for onsite duties at the facility and who is available for phone consultation. In addition, facilities must designate an individual to be the facility's Infection Control Specialist, who is responsible for carrying out the facility's infection prevention and control protocols and serves as the point of contact for the Department in case there are disease outbreaks. The Infection Control Specialist must be qualified for the role through education, training and experience, or certification, and complete specialized training within three months of being designated if such training has not been completed within the 24-month period prior to the designation. While there are no specific staffing ratio requirements, facilities must have a technology-based, Acuity-Based Staffing Tool that determines the appropriate numbers of caregivers and general staffing based on resident acuity and service needs. ODHS offers a tool for providers to use. If a provider chooses to use their own tool, it must meet the criteria outlined in OAR 411-054-0037 (5). This staffing tool must be updated after each resident move in, whenever there is a resident change in condition, and no less than quarterly. This Acuity-Based Staffing Tool will provide information to develop the facility's staffing plan which is required to be posted in a public area. Such systems may be either manual or electronic. Guidelines for the Acuity-Based Staffing Tool must also consider physical elements of a building, fire/safety evacuation needs, use of technology, if applicable, and staff experience.

A minimum of two caregivers must be scheduled and available at all times whenever a resident requires the assistance of two caregivers for scheduled and unscheduled needs. In facilities where residents are housed in two or more detached buildings, or if a building has distinct and segregated areas, a designated caregiver must be awake and available in each building and each segregated area at all

times.

Facilities must be able to demonstrate how their staffing system works. The Department retains the right to require minimum staffing standards based on acuity, complaint investigation or survey inspection.

Staff under 18 years of age may not assist with medication administration or delegated nursing tasks and must be supervised when providing bathing, toileting, or transferring services.

Administrator/Director Education and Training Requirements

The administrator is required to be at least 21 years of age, and:

- (1) Possess a high school diploma or equivalent; and
- (2) Have two years of professional or management experience that has occurred within the last 5 years in a health or social service-related field or program; or
- (3) Have a combination of experience and education; or
- (4) Possess an accredited Bachelor's degree in a health or social service-related field.

Additionally, all administrators must complete:

- (1) A state-approved administrator training program that includes a classroom training of no less than 40 hours; and
- (2) 20 hours of continuing education per year. MCC administrators must complete 10 continuing education hours on dementia related topics each year.

All ALF and RCF administrators must be licensed by the Oregon Health Authority, Health Licensing Office (OHA HLO). Potential administrators must complete the criteria above as well as a tuberculous screening, background check, and pass the proficiency licensing exam prior to becoming an administrator.

Direct Care Staff Education and Training

Prior to beginning their job responsibilities all employees must complete an orientation that includes residents' rights and the values of community-based care; abuse and reporting requirements; standard precautions for infection control; department-specific infectious disease prevention training; and fire safety and emergency procedures. If staff members' duties include preparing food, they must have a food handler's certificate.

Prior to providing care to residents, direct care staff in both non-memory care and memory care communities must complete an approved training on: 1) education on the dementia disease process, including the progression of the disease, memory loss,

psychiatric and behavioral symptoms; 2) techniques for understanding and managing symptoms, including but not limited to reducing the use of anti-psychotic medications for non-standard use; 3) strategies for addressing the social needs of persons with dementia and providing meaningful activities, and 4) information on addressing specific aspects of dementia care and ensuring the safety of residents with dementia, including, but not limited to how to: address pain, provide food and fluids; and prevent wandering and elopement.

The facility must have a training program that has a method to assess competency through observation, written testing or verbal testing. The facility is responsible to assure that caregivers have demonstrated satisfactory performance in any duty they are assigned. Knowledge and performance must be demonstrated in all areas within the first 30 days of hire, including, but not limited to:

- (1) The role of service plans in providing individualized resident care;
- (2) Providing assistance with ADLs;
- (3) Changes associated with normal aging;
- (4) Identification of changes in the resident's physical, emotional, and mental functioning, and documentation and reporting on the resident's changes of condition;
- (5) Conditions that require assessment, treatment, observation, and reporting; and
- (6) General food safety, serving, and sanitation.

If the caregiver's duties include the administration of medication or treatments, appropriate facility staff, in accordance with OAR 411-054-0055 (Medications and Treatments), must document that they have observed and evaluated the individual's ability to perform safe medication and treatment administration unsupervised.

Prior to providing personal care services for a resident, caregivers must receive an orientation to the resident, including the resident's service plan. Staff members must be directly supervised by a qualified person until they have successfully demonstrated satisfactory performance in any task assigned and the provision of individualized resident services, as applicable.

Staff must be trained in the use of the abdominal thrust and first aid. CPR training is recommended, but not required.

Direct caregivers must have 12 hours of in-service training annually, including six hours specific to dementia care. All dementia care training provided to direct care staff must be approved by the

Department. Staff must have annual training on infectious disease and infection control.

All staff of APD licensed settings must attain training certificate on the bill of rights for residents who identify as LGBTQIA2S+ or live with HIV. The certificate is valid for 24 months from the date of completion and additional training is required every two years.

Quality Requirements

The facility must develop and conduct an ongoing quality improvement program that evaluates services, resident outcomes, and resident satisfaction.

Oregon Providers are required to report on five quality metrics on an annual basis. The reporting occurs in January of every year for the previous year. The five areas that are measured are:

Retention of direct care staff

Compliance with staff training requirements

Number of resident falls that result in injury

Incidence of use of antipsychotic medications for non-standard purposes

Results of an annual resident satisfaction survey conducted by an independent entity utilizing the CoreQ criteria

Infection Control Requirements

(1) Facilities must establish and maintain infection prevention and control protocols to provide a safe, sanitary, and comfortable environment. This includes protocols to prevent the development and transmission of communicable diseases.

(2) Each facility must designate an individual to be the facility's "Infection Control Specialist" responsible for carrying out the infection prevention and control protocols and serving as the primary point of contact for the Department regarding disease outbreaks. The Infection Control Specialist must:

(a) Be qualified by education, training and experience or certification; and

(b) Complete specialized training in infection prevention and control protocols within three months of being designated under this paragraph, unless the designee has received the specialized training within the 24-month period prior to the time of the designation.

- (3) Each facility must establish infection prevention and control protocols and have an Infection Control Specialist, trained as required in this rule.
- (4) Facilities must comply with masking requirements as prescribed in OAR 333-019-1011 or, if applicable, OAR437-001-0744, to control the spread of COVID-19.
- (5) Facilities must comply with vaccination requirements for COVID-19 as prescribed in OAR 333-019-1010. Facilities must maintain proof of vaccination or documentation of a medical or religious exemption as required in OAR 333-019-1010(4).

Emergency Preparedness

An emergency preparedness plan is a written procedure that identifies a facility's response to an emergency or disaster for the purpose of minimizing loss of life, mitigating trauma, and to the extent possible, maintaining services for residents, and preventing or reducing property loss.

- (1) The facility must prepare and maintain a written emergency preparedness plan in accordance with the OFC.
- (2) The emergency preparedness plan must:
 - (a) Include analysis and response to potential emergency hazards, including, but not limited to:
 - (A) Evacuation of a facility;
 - (B) Fire, smoke, bomb threat, and explosion;
 - (C) Prolonged power failure, water, and sewer loss;
 - (D) Structural damage;
 - (E) Hurricane, tornado, tsunami, volcanic eruption, flood, and earthquake;
 - (F) Chemical spill or leak; and
 - (G) Pandemic.
 - (b) Address the medical needs of the residents, including:
 - (A) Access to medical records necessary to provide services and treatment; and
 - (B) Access to pharmaceuticals, medical supplies, and equipment during and after an evacuation.
 - (c) Include provisions and supplies sufficient to shelter in place for a minimum of three days without electricity, running water, or replacement staff
- (3) The facility must notify the Department, the local AAA office, or designee, of the facility's status in the event of an emergency that requires evacuation and during any emergent situation when requested.
- (4) The facility must conduct a drill of the emergency preparedness plan at least twice a year in accordance with the OFC and other applicable state and local codes as required. One of the practice drills may consist of a walk-through of the duties or a discussion

exercise with a hypothetical event, commonly known as a tabletop exercise. These simulated drills may not take the place of the required fire drills.

(5) The facility must annually review or update the emergency preparedness plan as required by the OFC and the emergency preparedness plan must be available on-site for review upon request.

Medicaid Policy and Reimbursement

Medicaid covers services in assisted living and residential care facilities via K Plan which is authorized under the Section 1915(k) Community First Choice state plan option authority. It is a tiered system of reimbursement based on the services provided.

Life Safety Requirements

All buildings must have an automatic sprinkler system, smoke detectors, and an automatic and manual fire alarm system.

Buildings must have a heating and ventilation system that complies with building codes and is capable of maintaining the specified temperatures outlined in Rules. Facilities must have a written emergency procedure and disaster plan for meeting all emergencies and disasters that must be approved by the state fire marshal. A minimum of one unannounced fire drill must be conducted and recorded every other month. Each month that a fire drill is conducted, the time (day, evening, and night shifts) and location of the drill must vary. Fire and life safety instruction to staff must be provided on alternate months. In addition to routine fire drills, the facility must conduct a drill of the emergency preparedness plan at least twice a year.

Citations

Oregon Administrative Rules. (2020) Chapter 411, Division 54: Residential Care and Assisted Living Facilities.
http://www.dhs.state.or.us/policy/spd/rules/411_054.pdf

Oregon Administrative Rules. (2016) Chapter 411, Division 57: Memory Care Communities.
http://www.dhs.state.or.us/policy/spd/rules/411_057.pdf

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<https://www.oregon.gov/dhs/SENIORS-DISABILITIES/HCBS/Pages/index.aspx>

79th Oregon Legislative Assembly. (2017) House Bill 3359.

<https://olis.oregonlegislature.gov/liz/2017R1/Downloads/MeasureDocument/HB3360>