South Dakota

Agency  
Department of Health, Office of Health Facilities Licensure and Certification

Contact  
Jennifer Maeschen  
E-mail  
Jennifer.Maeschen@state.sd.us  
Phone  
(605) 773-3356 or (605) 995-8147  
Website  
https://doh.sd.gov/providers/licensure/

Licensure Term  
Assisted Living Centers

Opening Statement  
The South Dakota Department of Health, Office of Health Facilities Licensure and Certification, licenses assisted living centers. Facilities must receive additional certification to provide specified services and/or to admit residents with specified conditions or needs.

Legislative and Regulatory Update  
There are no significant recent legislative or regulatory changes affecting assisted living centers in South Dakota.

Definition  
Assisted living centers are defined as any institution, rest home, boarding home, place, building, or agency that is maintained and operated to provide personal care and services that meet some need beyond basic provision of food, shelter, and laundry.

A secured unit is a distinct area of a facility in which the physical environment and design maximizes functioning abilities, promotes safety, and encourages independence for a defined unique population, that is staffed by persons with training to meet the needs of residents admitted to the unit.

Disclosure Items  
Prior to or at the time of admission, facilities must inform residents orally and in writing of their rights and of the rules governing the resident’s conduct and responsibilities while living in the facility. The regulations specify the information that must be disclosed, including for example, the right to access records pertaining to the resident, to be fully informed of the resident’s health status, and to refuse treatment. During the stay, facilities must notify residents orally and in writing of any changes to the original information. Additionally, the facility must provide in writing information on available services, as specified in the regulations.
Facility Scope of Care

Facilities must provide supportive services for activities and spiritual needs individualized to each resident. Facilities must also provide for the availability of physician services. Nothing in regulation limits or expands the rights of any healthcare worker to provide services within the scope of the professional's license, certification, or registration, as provided by South Dakota law. Skilled care must be delivered by facility staff or a Medicare certified home health agency for a limited time with a planned end date. Skilled nursing services or rehabilitation services provided to residents shall be limited to less than eight hours per day and 28 or fewer hours each week.

Third Party Scope of Care

Outside services utilized by residents must comply with and complement facility care policies. An unlicensed employee of a licensed facility may not accept any delegated skilled tasks from unemployed, non-contracted skilled nursing or therapy providers, or hospice providers. Hospice services must be delivered by Medicare certified hospice agencies with an agreement in place, staff training, and notification of the department when a resident elects or discontinues hospice care. Additional staffing is required when a resident is incapable of self-preservation in facilities with 16 beds or less, but family members may assist in providing supportive services to hospice residents in lieu of additional staff.

Admission and Retention Policy

Before admission, residents must submit written evidence from their physician, physician assistant, or nurse practitioner determining that they are in reasonably good health and free from communicable disease, chronic illness, or disability that would require any services beyond supervision, cueing, or limited hands-on physical assistance to carry out normal activities of daily living (ADLs) and instrumental activities of daily living (IADLs). An assisted living center may admit and retain any resident who is able to:

(1) Complete ADLs of mobility or ambulation, dressing, toileting, including the provision of incontinence, catheter, or ostomy care, personal hygiene, and bathing independently or with assist of staff according to additional provisions for total ADL assistance;

(2) Feed self with set up, cueing, and supervision, assistance may be provided according to additional provision for dining assistance;
(3) Complete own medication administration including injections or have medications administered by qualified personnel;
(4) Remain free from the need for restraints, except for admission to a secured unit;
(5) Demonstrate no need for skilled services unless provided by the assisted living licensed nurse, Medicare certified home health agency, or a Medicare certified hospice provider;
and
(6) Maintain conditions that are stable and controlled that do not require frequent nursing care or frequent visits or notifications to a physician, physician assistant, or nurse practitioner.

Facilities may not admit or retain residents who require more than intermittent nursing care or rehabilitation services. If individuals live in the center who are not capable of self-preservation, the center must comply with the Life Safety Code pertaining to individuals who do not have this capability. Residents covered by Medicaid cannot be involuntarily transferred or discharged unless their needs and welfare cannot be met by the facility.

The assisted living may admit and retain only those residents for whom it can provide care safely and effectively.

**Resident Assessment**

An assisted living center must ensure an evaluation of each resident's care needs are documented at the time of admission, 30 days after admission, and annually thereafter to determine if the facility can meet the needs for each resident. The resident evaluation instrument must address at least the following:
(1) Nursing care needs;
(2) Medication administration needs;
(3) Cognitive status, including IADLs;
(4) Mental health status;
(5) Physical abilities including ADLs, ambulation, and the need for assistive devices; and
(6) Dietary needs.

The facility must develop written communication outlining resident care and services it is licensed to provide to the resident’s physician, physician assistant, or nurse practitioner upon resident admission, yearly, and after a
significant change of condition. Facilities also must use a screening tool for evaluation of a resident’s cognitive status upon admission, yearly, and after a significant change in condition.

**Medication Management**

Facilities that admit or retain residents who require administration of medications must employ or contract with a licensed nurse who assesses and documents resident care and condition based on their individual needs. A registered nurse must provide medication administration training, according to the South Dakota Board of Nursing requirements, to any unlicensed staff who will be administering medications. Unlicensed staff must pass an approved medication course and receive ongoing resident-specific training for medication administration and annual training in all aspects of medication administration occurring in the facility.

**Square Feet Requirements**

Private resident units must be a minimum of 120 square feet in each one-bed room and 200 square feet in each two-bed room, exclusive of toilet rooms, closets, lockers, wardrobes, or vestibules. Any sleeping room designed as part of a suite must have a minimum of 100 square feet in each one-bed room and 140 square feet in each two-bed rooms. The minimum dimension in a sleeping room may not be less than nine feet six inches.

**Residents Allowed Per Room**

A maximum of two residents is allowed per resident unit.

**Bathroom Requirements**

Each resident toilet room shall be directly accessible for each resident without going through the general corridor. In remodeling projects, one toilet room in a resident room may serve two resident rooms, but not more than four beds. For new construction, a toilet room may not be shared between resident rooms.

**Life Safety**

The 2012 edition of the Life Safety Code (LSC) has been adopted. All newly constructed assisted living centers must be equipped with an automatic sprinkler system, fire alarm systems, and smoke detection systems based on their occupancy classification. These systems must be installed in accordance with National Fire Protection Association (NFPA) codes (NFPA-13 & NFPA 72). All existing assisted living centers are inspected for compliance using the appropriate occupancy classification of the LSC and NFPA codes and standards.
Unit and Staffing Requirements for Serving Persons with Dementia

Each facility with secured units must comply with the following:

1. Physician’s order for confinement of the resident that includes medical symptoms that warrant seclusion that must be reviewed periodically;
2. Therapeutic programming must be provided and documented in the resident’s plan of care;
3. Confinement may not be used as a punishment or for the convenience of staff;
4. Confinement and its necessity must be based on comprehensive assessment of a resident’s physical, cognitive, and psychosocial needs, and risks and benefits of confinement must be communicated to the resident’s family;
5. Comply with Life Safety Code regarding locked doors; and
6. Staff working in secured unit must have specific training regarding the needs of residents in the unit and at least one caregiver must be on the secured unit at all times.

Any secured unit must be located at grade level and have direct access to an outside area. Every secured unit must have an outdoor area that is accessible to the residents and enclosed by a fence.

Staffing Requirements

Each facility must have a designated administrator responsible for the daily overall management of the facility. There must be a sufficient number of qualified personnel to provide effective care. At least two staff persons must be on duty at all times, and those staff on duty must be awake at all times, unless the department has approved a staffing exception requested by the facility. Each facility must employ or contract with a licensed nurse who assesses and documents that the resident’s individual personal care, and medical, physical, mental, and emotional needs, including pain management, have been identified and addressed.

If the facility admits and retains residents on therapeutic diets, it must employ or contract with a registered dietician. There are additional staffing requirements if the facility admits and retains any resident who requires dining assistance, one or two staff for up to total assistance with completing ADLs, or is receiving hospice services.
Administrator Education/Training

Administrators must:
(1) be licensed health care professionals as defined in regulation; or
(2) be a graduate from an accredited institution of a higher learning program for long-term healthcare or health service administration program; or
(3) complete a department approved assisted living administrator course and pass the competency examination included with the course.

During completion of the course, oversight by a qualified administrator with at least two years’ experience shall continue until the administrator training is complete.

Staff Education/Training

The facility must have a formal orientation program and ongoing education for all staff. Ongoing education programs must cover the following subjects annually:
(1) Fire prevention and response (the facility must conduct fire drills quarterly for each shift);
(2) Emergency procedures and preparedness;
(3) Infection control and prevention;
(4) Accident prevention and safety procedures;
(5) Resident rights;
(6) Confidentiality of resident information;
(7) Incidents and diseases subject to mandatory reporting and facility's reporting mechanism;
(8) Nutritional risks and hydration needs of residents;
(9) Abuse, neglect, and misappropriation of resident property and funds;
(10) Problem solving and communication techniques related to individuals with cognitive impairment or challenging behaviors if admitted and retained in the facility; and
(11) Any additional healthcare employee education necessary based on the individualized resident care needs provided by the healthcare employees to the residents who are accepted and retained in the facility.

Regulations require a number of additional trainings in specified circumstances when facilities provide care for certain patient populations or certain services. For example, each direct care staff member at a facility that admits or retains a resident who requires one or two staff members for total assistance must complete an approved certified nurse aide training program. If a facility admits and retains residents who require dining assistance, the staff
member providing assistance must be a certified nurse aide or have completed an approved nutrition and hydration assistance program.

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<thead>
<tr>
<th>Entity Approving CE Program</th>
<th>None specified.</th>
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<tbody>
<tr>
<td>Medicaid Policy and Reimbursement</td>
<td>State funds coupled with a broad Section 1915(c) Medicaid home and community-based services waiver, the Home &amp; Community-Based Options and Person Centered Excellence (HOPE) Waiver, covers services in assisted living centers. The HOPE Waiver covers people ages 65 and older as well as people ages 18 years and older who have a qualifying disability. The Centers for Medicare and Medicaid Services renewed the (HOPE) Waiver, operated by the Division of Long Term Services and Supports, effective October 1, 2021; the waiver will expire in September 2026.</td>
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<td>COVID-19 Public Health Emergency</td>
<td>There are no permanent regulatory changes related to the COVID-19 public health emergency.</td>
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| Citations | South Dakota Department of Human Services, Long Term Services and Supports, Assisted Living. [2020] [2019]
South Dakota Department of Health, Healthcare Providers, Health Facilities Licensure, Staffing Exception Forms for Assisted Living Centers. [2019]
South Dakota Department of Social Services, Medicaid Home and Community Based Services. [2020] |