

West Virginia

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Licensure Term Assisted Living Residences and Residential Care Communities

Opening Statement Assisted living is regulated by the Department of Health and Human Resources, Office of Health Facility Licensure and Certification. Assisted Living is a housing alternative for older adults who may need help with dressing, bathing, eating, and toileting, but do not require the intensive medical and nursing care provided in nursing homes. There are two types of licensed residential care settings in West Virginia: an assisted living residence (ALR) and a residential care community (RCC). The primary difference between ALRs and RCCs is that residents in the latter must be capable of self-preservation in an emergency. The following requirements apply to both types of facilities unless otherwise noted.

A separate license must be obtained for a facility to offer specialized units for persons with Alzheimer's disease or other dementia. Such facilities must be licensed as either an ALR or a skilled nursing facility. Licensed facilities that do not market themselves as offering Alzheimer's/dementia special care units may serve residents with early dementia symptoms.

Legislative and Regulatory Update

The state finalized new ALR regulations that went into effect July 30, 2019, with the following types of changes:

- (1) Technical corrections.
- (2) Statutory definitions have been incorporated by reference, including for abuse and neglect; Certain defined terms have been updated to represent current definitions and consistency with other licensing rules.
- (3) Amendments allow facilities to establish, offer, and advertise prior to obtaining a license in order to make it easier to establish new facilities.

(4) Time periods for notification of change in name, physical address, and change of ownership clarified.

(5) Amendment allows renewal applications to be submitted by any means, not limiting it to postmarked or hand delivery.

(6) Language regarding background checks has been replaced with the requirement that prospective employees go through the West Virginia Clearance for Access: Registry and Employment Screening (WV CARES) process.

(7) Amendments include updating the administrative due process; licensure denials, revocations, and suspensions; penalties and equitable relief; and administrative appeals and judicial review sections to represent current practices and procedures and provide clarification where needed.

(8) Regulations removed and clarified relating to specific records to be kept and that the same can be kept with the resident's record, rather than a separate system.

(9) Requirement that resident see registered nurse weekly amended so that only those residents with nursing care needs see registered nurse weekly.

Definition

ALR: Any living facility or place of accommodation in the state, however named, available for four or more residents that is advertised, offered, maintained, or operated by the ownership or management for the express or implied purpose of providing personal assistance, supervision, or both to any residents who are dependent upon the services of others by reason of physical or mental impairment and who may also require nursing care at a level that is not greater than limited and intermittent. A small ALR has a resident capacity of four to 16 residents. A large ALR has a resident capacity of 17 or more.

RCC: Any group of 17 or more residential apartments that are part of a larger independent living community that provides personal assistance or supervision on a monthly basis to 17 or more persons who may be dependent upon the services of others by physical or mental impairment or who may require limited or intermittent nursing services, but who are capable of self preservation.

Disclosure Items

ALR: The facility and the resident enter into a written contract on admission that specifies, at a minimum: (1) the type of resident population the residence is licensed to serve; (2) the nursing care

services that the residence will provide to meet the resident's needs and how they will be provided; (3) an annual disclosure of all costs; (4) refund policy; (5) an assurance that the resident will not be held liable for any cost that was not disclosed; (6) discharge criteria; (7) how to file a complaint; (8) policies for medication; (9) management of residents' funds; and (10) whether the residence has liability coverage.

RCC: The facility and the resident enter into a written contract on admission that specifies: (1) the facilities' admission, retention and discharge criteria; (2) the services that the residence will provide to meet the resident's needs; (3) disclosure of all costs; (4) how health care will be arranged or provided; (5) how to file a complaint; and (6) policies for medication.

Facility Scope of Care

Facilities may provide assistance with activities of daily living and/or supervision and have the option of providing limited and intermittent nursing services. They may also make arrangements for hospice or a Medicare-certified home health agency.

Third Party Scope of Care

If a resident has individual, one-on-one needs that are not met by the allowable service provision in the facility and the resident has medical coverage or financial means that permit accessing additional services, the facility shall seek to arrange for the provision of these services, which may include intermittent nursing care or hospice care. The provision of services must not interfere with the provision of services to other residents.

Admission and Retention Policy

Residents in need of extensive or ongoing nursing care or with needs that cannot be met by the facility shall not be admitted or retained. The licensee must give the resident 30-day written notice and file a copy of the notice in the resident's record prior to discharge, unless an emergency situation arises that requires the resident's transfer to a hospital or other higher level of care, or if the resident is a danger to self or others.

Additionally, for an RCC, only individuals with the capability of removing him or herself from situations of imminent danger (e.g., fire) may be admitted. A resident who subsequently becomes incapable of removing him or herself may remain in the RCC in specified circumstances.

Resident Assessment

Each resident must have a written, signed, and dated health assessment by a physician or other licensed health care professional authorized under state law to perform this assessment not more than 60 days prior to the resident's admission, or no more than five working days following admission, and at least annually after that.

Each resident must have a functional needs assessment completed in writing by a licensed health care professional that is maintained in the resident's medical record. This assessment must include a review of health status and functional, psychosocial, activity, and dietary needs.

Medication Management

ALR: Only licensed staff may administer or supervise the self-administration of medication by residents. Approved Medication Assistive Personnel (for which specific training and testing is required) can administer medications in the facility.

RCC: The residence must ensure that resident care is provided by appropriately licensed health care professionals. The prescribing health care professional must determine whether or not the resident can self-administer medications.

Square Feet Requirements

ALR: Bedrooms in an existing large ALR must provide a minimum of 80 square feet per resident. In an existing small ALR, a semi-private room must provide at least 60 square feet per resident and a private room 80 square feet per resident. New facilities, construction or renovations, require at least 100 square feet of floor area in a single-occupancy room and 90 square feet of floor area per resident in a double-occupancy room.

RCC: Each apartment must be at least 300 square feet, have doors that can lock and contain at least one bedroom, one kitchenette to include a sink and refrigerator, and one full bathroom.

Residents Allowed Per Room

In a newly constructed or renovated residence no more people may occupy a bedroom. In an existing residence, no bedroom shall be occupied by more residents than the bed capacity approved by the commissioner on May 1, 2006.

Bathroom Requirements

ALR: Common toilet, lavatory, and bathing facilities are permitted. In new construction, facilities must have a minimum of two bathrooms at a ratio of no less than one toilet and lavatory for every six residents. A minimum of one bathing facility per floor at a ratio of one bathing facility for every 10 residents.

RCC: Each apartment must have its own full bathroom to include a bathing area, toilet, and sink.

Life Safety

All ALRs and RCCs with four or more beds must comply with state fire commission rules and must have smoke detectors, fire alarm systems, and fire suppression systems. Small ALRs (with four to 16 beds) must have a National Fire Protection Association (NFPA) 13D- or 13R-type sprinkler system. Large ALRs (with 17+ beds) must

have an NFPA 13-type sprinkler system. All facilities must have smoke detectors in all corridors and resident rooms. Assisted living communities with permanently installed, fuel-burning appliances or equipment that emits carbon monoxide as a byproduct of combustion are required to have carbon monoxide detectors. Facilities must have manual pull stations and a fire alarm system. Each facility must have a written disaster and emergency preparedness plan with procedures to be followed in any emergency.

Unit and Staffing Requirements for Serving Persons with Dementia

If the facility advertises or promotes a specialized memory loss, dementia, or Alzheimer's unit, a separate license must be obtained. The Alzheimer's/dementia special care unit or program must provide sufficient numbers of direct care staff to provide care and services; staffing levels must meet specified ratios.

All licensed assisted living facilities must provide training to all new employees within 15 days of employment, and annually thereafter, on Alzheimer's disease and related dementia. The training must last a minimum of two hours and include specific topics. If the facility has a licensed Alzheimer's unit or program, a minimum of 30 hours of training related to the care of residents with Alzheimer's disease or related dementia is required.

Staffing Requirements

ALR: An administrator must be on staff. At least one direct care staff person who can read and write must be present 24 hours per day. A sufficient number of qualified employees must be on duty to provide residents all the care and services they require. The number of additional direct care staff on the day and night shifts increases by a defined ratio depending on the number of residents identified on their functional needs assessment to have two or more needs as defined in the code. If nursing services are provided, a registered nurse must be employed to provide oversight and supervision. One employee who has current first aid training and current CPR training, as applicable, must be on duty at all times.

RCC: An administrator must be on staff. At least one residential staff person must be present 24 hours per day. A sufficient number of qualified employees must be on duty to provide residents all the care and services they require.

Administrator Education/Training

For large ALRs and RCCs, administrator must be at least 21 years of age and hold an associate's degree or its equivalent in a related field. For small ALRs, the administrator must be 21 years of age and have a high school diploma or GED. The administrator must have a background check. The administrator of an ALR must have eight hours of training annually. The administrator of an RCC must have

10 hours of training annually, and the training must be related to the administration and operation of RCCs.

Staff Education/Training

ALR: Personal care staff must complete an orientation and annual in-service training sessions. Orientation includes, at a minimum: emergency procedures and disaster plans; the residence's policies and procedures; resident rights; confidentiality, abuse prevention and reporting requirements; the ombudsmen's role; complaint procedures; specialty care based on individualized resident needs and service plans; the provision of group and individual resident activities; and infection control. Annual training is on the topics of: resident rights; confidentiality; abuse prevention and reporting requirements; the provision of resident activities; infection control; and fire safety and evacuation plans.

RCC: New employees must complete an orientation on emergency procedures and disaster plans; the residence's policies and procedures; resident rights; abuse, neglect, and mistreatment policies; complaint procedures; care of aged, infirm, or disabled adults; personal assistance procedures; specific responsibilities of the residential staff for assisting current residents; CPR and first aid; and infection control. Annual training must be provided on the topics of resident rights; confidentiality; abuse, neglect, and mistreatment; emergency care of residents; the responsibilities of the residential staff for assisting residents; and infection control.

**Entity Approving
CE Program**

None specified.

**Medicaid Policy and
Reimbursement**

West Virginia does not use Medicaid to cover services in any type of residential care setting.

Citations

West Virginia Administrative Code, Chapter 16, Article 5N,
Residential Care Communities
<http://www.wvlegislature.gov/wvcode/ChapterEntire.cfm?chap=16&art=5N>

West Virginia Administrative Code, Title 64, Series 14, Assisted Living Residences. [July 30, 2019]
<http://apps.sos.wv.gov/adlaw/csr/readfile.aspx?DocId=8278&Format=PDF>

West Virginia Administrative Code, Title 64, Series 75, Residential Care Communities. [July 1, 1999]
<http://apps.sos.wv.gov/adlaw/csr/readfile.aspx?DocId=8924&Format=PDF>

West Virginia Administrative Code, Title 64, Series 85,
Alzheimer's/Dementia Special Care Units and Programs. [May 1,
2006]

<http://apps.sos.wv.gov/adlaw/csr/readfile.aspx?DocId=8999&Format=PDF>

West Virginia Code. Chapter 16, Article -5D. Assisted Living
Residences.

<http://www.legis.state.wv.us/WVCODE/Code.cfm?chap=16&art=5D#05D>

West Virginia Code. Chapter 16, Article 49. West Virginia Clearance
for Access: Registry and Employment Screening Act.

<http://www.legis.state.wv.us/wvcode/ChapterEntire.cfm?chap=16&art=49>

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